**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**F.A.O No. 591 of 2018**
**Date of decision:- 13.03.2018**

United India Inssurance Co. Ltd. ...Appellant

Versus

Chitar Kanwar and others ...Respondents

***CORAM: HON'BLE MS. JUSTICE RITU BAHRI***

Present:- Mr. Suman Jain, Advocate
for the appellant

**RITU BAHRI J. (Oral)**

The present appeal has been preferred by the Insurance Company-appellant, seeking modification of the award passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') to the tune of Rs.06,44,000/-, vide impugned award dated 07.10.2017 in a claim petition filed under Section 166 of the Motor Vehicles Act (for short 'the Act').

Learned counsel for the appellant is seeking modification of the award on two grounds firstly that the compensation has been awarded on the higher side and secondly, the license of the driver of the offending vehicle was fake.

As regard to the first argument, the learned Tribunal has awarded the compensation rightly as the deceased was an ex servicemen and his income was taken at Rs.9000/- per month. 1/2 was deducted towards personal expenses. The multiplier of 11 was applied. Rs.25,000/- were awarded towards loss of love and affection and Rs.25,000/- towards last rites.

In view of judgment of Hon'ble the Supreme Court of India in a case of ***National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017,*** the argument regarding awarding of compensation on higher side, is rejected.

Now coming to the argument of fake driving license, the learned Tribunal has categorically held that it was the duty of the Insurance Company to prove that the driving license was fake. Mere tendering of the report of the Investigator was not held to be sufficient enough to establish that the driving license was fake. The Insurance Company was also liable to prove that the owner had the knowledge of the fact that the license of the driver was fake. Reliance has been placed upon judgment of Hon'ble the Supreme Court in a case of ***National Insurance co. Ltd vs. Swaran Singh 2004(2) RCR (Civil) 114*** and judgment of this Court in a case of ***India Insurance co. Ltd. vs. Shanti Devi and others, 2008(3) RCR (Civil) 541.***

In view of the above judgments, the learned Tribunal has rightly held that the Insurance company cannot absolve itself of its liability to compensate the third party.

The appeal is dismissed, being devoid of any merits.

**13.03.2018** **(RITU BAHRI)**
***G Arora*** ***JUDGE***

***Whether speaking/reasoned*** ***Yes***
***Whether reportable*** ***No***