

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

FAO No. 1265 of 1992 (O&M)

Date of Decision: 30.9.2019

New India Assurance Co. Limited.

...Appellant

Versus

Asha Rani and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Deepak Suri, Advocate
for the appellant.

Mr. Abhishek Sharma, Advocate, for
Mr. Jasraj Singh, Advocate,
for respondents No. 1 to 3 and 5.

JAISHREE THAKUR, J.

1. Aggrieved against the award of the Motor Accident Claims Tribunal, the instant appeal has been preferred by the Insurance Company.

2. In brief, the facts are that an accident took place on 21.06.1991 at about 10:45 pm. It was stated that Vir Kumar, along with Constable Jagtar Singh, was doing patrolling duty on the motorcycle No. PB-07-4993 and when they reached Committee Bazar, Hoshiarpur, a scooter No. PB-07-4009 came at a very fast speed and struck into them. Due to the accident, both received injuries and Vir Kumar succumbed to the said injuries and died. On account of the death of Vir Kumar, a claim petition was filed which was contested by the Insurance Company by taking the plea that the Insurance Company would not be liable to pay compensation since the

driver was not holding a valid driving license at the relevant time. Respondents No. 1 and 2 contested the claim petition by stating that the accident in fact took place on account of the rash and negligent driving of Jagtar Singh. The widow of the deceased examined Jagtar Singh, Constable as an eyewitness, who deposed stating that he was driving the motorcycle and that the deceased Vir Kumar was on the pillion seat and when they reached near the Committee Bazar, respondent No. 1 the driver, came at a fast speed and hit into the motorcycle being driven by him. Consequent to the accident, Vir Kumar fell down and received injuries, who was then shifted to the hospital where he passed away. The Tribunal, on appreciation of the evidence, held that the accident took place on account of the rash and negligent driving of respondent No. 1 and fastened the liability on the Insurance Company. Aggrieved against that award, the instant appeal has been filed.

3. Mr. Deepak Suri, learned counsel appearing on behalf of the Insurance Company, contends that a specific plea had been taken that the driver of the scooter was not holding a valid driving license and as such no liability could have been fastened upon the Insurance Company. It is contended that the driver did not produce the original driving license and had relied upon a duplicate license and, therefore, the Insurance Company has to be absolved of the liability. It is argued that the Assistant from DTO, Hoshiarpur, had specifically stated that no driving license was issued to the driver of the scooter on 08.04.1989, which statement could not have been ignored.

4. Per contra, Mr. Abhishek Sharma, appearing on behalf of the

respondents, submits that there is no infirmity in the award of the Tribunal being a well reasoned award.

5. I have heard the counsel for the parties and have perused the pleadings of the case.

6. Admittedly, an accident took place resulting in the death of Vir Kumar. The Insurance Company took up the plea that the driving licence was not valid being a duplicate one and hence the compensation was to be paid by the owner of the offending vehicle. The appellant herein seeks to rely upon the statement given by Sh. Surinder Singh, Assistant from the office of District Transport Office, Hoshiarpur, who had stated that the record that he had brought for the year 1989 did not show that any driving licence had been issued to respondent No. 1 on 08.04.1989. However, in the cross-examination, he has admitted that he identified the signatures of Sh. Mohinder Pal, DTO-Cum-Licensing Authority on the duplicate driving licence issued i.e Ex R2. The duplicate licence was renewed from 4.12.1991 to 3.12.1994, based on the previous driving license No 9225 of 1988-1989. He further admitted that the last entry in the register is dated 7.04.1989 and thereafter the register is blank. If the Insurance Company was disputing the genuineness of the driving licence, it should have summoned the then District Transport Officer, Sh. Karam Singh who had issued the driving licence Ex. R1, based upon which the duplicate was issued. Sh. Karam Singh was available as he was still in service.

7. The Tribunal also took into account the statement of respondent No. 1, who had stated that his driving license issued in 1989 was damaged, and thereafter he applied for a duplicate which was issued to him valid till

such time as the original was to expire. The explanation is reasonable and cannot be faulted with coupled with the fact that the signatures of the issuing authority on the duplicate driving licence stands duly identified. The driving licence was valid as on the date of the accident.

8. Finding on infirmity in the award the appeal stands dismissed.

30.9.2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No