

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

FAO-1806-1994(O&M)

Date of Decision:-6.9.2019

United India Insurance Co. Ltd.

...Appellant

Versus

Smt.Baljinder Kaur and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Ms.Vandana Malhotra, Advocate
for the appellant.

H.S. MADAAN, J.

According to the version of the claimants, Parminder Singh and Vijay Kumar were returning from Ludhiana to Jagraon on motorcycle bearing registration No.PIL 3953 on 9.4.1991 and at about 5:00 p.m. when they had reached near bus stand of Mandiani towards sheller about 200 yards away, then truck bearing registration No.PUQ 511 driven by respondent No.1 – Krishan Lal in a rash and negligent manner struck against their motorcycle, resultantly, they were run over by the truck and suffered grievous injuries, to which, they succumbed at the spot. The motorcycle was being driven by Parminder Singh at a slow speed on left side of the road on which Vijay Kumar was a pillion rider. An FIR No.41 dated 9.4.1991 for the offences under Sections 304-A IPC was registered

against respondent No.1 – Krishan Lal at Police Station Dakha.

The legal representatives of deceased Parminder Singh, namely, his widow Smt. Baljinder Kaur and others had brought a claim petition bearing MACT No.49/66 of 1991-92 against respondents i.e. Krishan Lal – driver, M/S Khanna Sales Corporation, Ludhiana – owner and United India Insurance Co. Ltd., Ludhiana through its Regional Manager – insurer of the truck bearing registration No.PUQ/511. In the claim petition they had impleaded Uday Singh son of Sh.Bachan Singh as respondent No.4.

Similarly legal heirs of Vijay Kumar, namely, his widow – Kiran Bala and others had filed a claim petition bearing MACT No.50/87 of 1991/92 against those very respondents.

Since both the two claim petitions arose out of the same accident, those were tried together by Motor Accidents Claims Tribunal, Ludhiana.

On notice, respondents No.1 to 3 had appeared and filed written statements.

Issues on merits were framed. Both the parties were afforded adequate opportunities to lead evidence.

After hearing the arguments, the claim petitions were allowed by Motor Accidents Claims Tribunal, Ludhiana and compensation of Rs.1,80,000/- was granted to the claimants No.1 to 3 in claim petition No.49/66 of 1991-92 with interest at the rate of 12% per annum from the date of filing of the petition till the date of final payment, payable by respondents No.1 to 3 jointly and severally and compensation of

Rs.1,80,000/- was granted to the claimants No.1 to 4 in claim petition No.50/87 of 1991-92 with interest at the rate of 12% per annum from the date of filing of the petition till the date of final payment, payable by respondents No.1 to 3 jointly and severally.

Being dissatisfied with the Award passed by the Tribunal, respondent No.3 – Insurance company has filed separate appeals before this Court.

The present appeal is against Baljinder Kaur and others, whereas the other appeal had been filed against Kiran Bala and others.

I have heard learned counsel for the appellant besides going through the record.

In the present appeal, the main ground taken by the appellant – insurance company is that the driver of the offending truck had a forged licence, therefore the appellant – insurance company is not liable but it has been wrongly saddled with the liability.

A perusal of the award goes to show that the Tribunal has dealt with this aspect in detail coming to the conclusion that when respondents No.1 and 2 have relied upon photocopy of the driving licence Ex.R1, there is no necessity for appointment of a Local Commissioner, therefore the application moved by learned counsel for respondent No.3 for appointment of Local Commissioner was dismissed. The Tribunal has noted the contention raised by counsel for respondents No.1 and 2 that Krishan Lal had got his driving licence issued during the year 1990-91, which was subsequently renewed on 24.1.1994 and it is valid up to 3.1.1997 as per photocopy of licence Ex.R1. The licence was got renewed

from District Transport Officer, Hoshiarpur, as such respondent No.1 was in possession of a valid driving licence.

This issue has cropped up during hearing of the appeal filed by insurance company against Kiran Bala and others. That FAO-1807 of 1994 was dismissed vide order dated 27.2.2018. The relevant para of this FAO is being reproduced as under:-

A perusal of the Award shows that this aspect has been considered by the learned Tribunal in paragraph 18 of the Award wherein it is held that Mark A is the photo copy of the driving licence purported to have been issued by the Licencing Authority, M.V.Department Siliguri, Assam Government, which had been produced by the driver before the Tribunal and it had been taken into possession by the police in the criminal case. A report in this regard has been made by the dealing assistant of that department to the effect that driving licence was not issued from that office and verification report sent by Sh.K.C.Puri, Advocate of Siliguri had also been placed on the file. At the same time, driver appeared before the learned Tribunal as RW-1 and placed on record R-1 driving licence which has been issued during the year 1990-91 which was subsequently renewed from 24.01.1994 to 23.01.1997 as per photo state copy Ex.R1 and the same was got renewed from the DTO Hoshiarpur. As such, respondent No.1 was in possession of a valid driving licence. Since the original was placed on record by the driver, it was rightly taken into account. and Krishan Lal was working as driver with M/s Khanna Sales Corporation for the last about 5-6 years, no ground is made out to entertain the appeal of the Insurance Company on the issue of liability to make the compensation.

Thus, I do not see any reason to differ with the Co-ordinate Bench with regard to legality and validity of the licence. Therefore, the insurance company was rightly made liable and it cannot be absolved of

its liability for the reason that respondent No.1 was not holding a valid and effective driving licence at the time of accident.

No other point was raised.

Finding no merit in the appeal, the same stand dismissed accordingly.

6.9.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No