

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

**Date of Decision :28.02.2019
FAO No.2132 of 1994 (O&M)**

National Insurance Company Limited

.....Appellant

Versus

Sito Devi and others

..... Respondents

FAO No.2133 of 1994 (O&M)

National Insurance Company Limited

.....Appellant

Versus

Gurdev Singh and others

..... Respondents

FAO No.2134 of 1994 (O&M)

National Insurance Company Limited

.....Appellant

Versus

Santosh Rani and others

..... Respondents

FAO No.2135 of 1994 (O&M)

National Insurance Company Pvt. Limited

.....Appellant

Versus

Jaili Ram and others

..... Respondents

FAO No.2136 of 1994 (O&M)

National Insurance Company Limited

.....Appellant

Versus

Chhinder Kaur and others

..... Respondents

FAO No.2137 of 1994 (O&M)

National Insurance Company Limited

.....Appellant

Versus

Daro and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present : Mr. Umesh Aggarwal, Advocate
for the appellant-Insurance Company.
Mr. Ashok Jindal, Advocate for owner and driver.

KRISHNA MURARI, CHIEF JUSTICE (Oral):

These six FAOs under Section 173 of the Motor Vehicles Act, 1988, filed by the Insurance Company, are directed against the award dated 9.3.1994, passed by the Motor Accident Claims Tribunal awarding a sum of Rs.2,88,000/- on account of deaths along with interest @ 12% per annum w.e.f. 8.5.1993, till its realization.

Facts in brief giving rise to the present dispute can be summarized as under:-

The respondents/claimants while going from Budhlada to Rampura on truck No.PUP-2076 met with an accident with another truck bearing No.PAT-2747, as a result of which Ramji Dass and Nanak Chand

suffered multiple injuries and died on the spot, whereas other occupant Kewal Ram was taken to the Hospital but he later succumbed to his injuries on 3.2.1993. Similarly, another occupant Angrej Singh also succumbed to his injuries on reaching Civil Hospital, Maur Mandi. Gurdev Singh and Jaili Ram who were also travelling in the same vehicle suffered multiple injuries. The offending vehicle was insured with the appellant-Insurance Company and applications were made on behalf of the heirs of the deceased as well as injured seeking compensation. The Tribunal clubbed all the six applications and disposed them of by a common award impugned in these appeals. The proceedings were contested by the Insurance Company as well as the owner and driver of the offending vehicle. Issues were framed and on the analysis of the oral as well as documentary evidence brought on record by the contesting respondents, the Tribunal returned a finding that the accident in question took place due to rash and negligent driving by the driver of the offending vehicle which resulted into the death and injuries. Thereafter, the Tribunal after taking into consideration the age of the deceased, the income, number of dependents and other relevant factors assessed a sum of Rs.2,88,000/- as compensation be awarded to the heirs of those who died in the accident. Whereas Gurdev Singh and Jaili Ram who suffered injuries, a sum of Rs.20,000/- and 15,000/- were awarded.

During the course of arguments, learned counsel for the appellant-Insurance Company has confined the scope of the appeal only to the right of recovery having not been given to the appellant-Insurance Company in cases where compensation has been awarded on account of

death on the ground that since the driver of the truck was having a fake licence as such the appellant-Insurance Company had a right to recover the compensation awarded from the owner and driver of the offending vehicle.

We have considered the argument advanced by learned counsel for the appellant and perused the record as well as the findings recorded by the Tribunal on this issue.

The claim of the appellant-Insurance Company before the Tribunal that the driving licence was fake was based on Surveyor report, which admittedly it failed to prove in accordance with law. Though, it is contended before us that an application was made to summon the concerned person from the office of the Road Transport Authority and diet was also deposited but there is nothing available on the record or from the award to decipher as to for what reasons no orders were passed on the application. Further, the Tribunal found that the licence issued by the Licensing Authority, Dehradun, which was subsequently renewed by the licensing authority Bikaner, and relying upon a Division Bench judgment rendered by this Court in **National insurance Co. Ltd. Vs. Sucha Singh and others 1994(1) The Punjab Law Reporter 140** held that there is presumption of genuineness once renewal takes place. It is an altogether different question that subsequently the said view was overruled by a Full Bench of this Court. Significantly, the Tribunal has further taken note of the fact that on the basis of the same driving licence the Company has released the insurance claim for the damage caused to the offending vehicle.

On a careful analysis of the evidence on record and the finding

returned by the Tribunal we are of the considered opinion that the award rendered by the Tribunal do not require any interference in these appeals. An amount of Rs. 2,88,000/- awarded in case of death appears to be justified, in the facts and circumstances of the case. In so far as, the two appeals pertaining to Rs.20,000/- and 15,000/-awarded in the case of injuries is concerned the amount being too meagre and the appeals having remained pending since 1994, we are not at all inclined to interfere even in these two appeals. As a result of the aforesaid facts and discussion all the six (6) appeals stand dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

28.02.2019

Manoj Bhutani

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