

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

FAO No.2403 of 1995
Date of Decision: 17.01.2019

Oriental Insurance Company Ltd.

...Appellant

versus

Gurmeet Kaur and others

...Respondents

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present :- Mr. R.C. Gupta, Advocate for the appellant.

Mr. Mohit Garg, Advocate for respondent Nos.4 and 5.

...

B.S. Walia, J (Oral)

1. Appeal has been filed by the Insurance Company challenging award dated 05.10.1995, passed by the learned Motor Accidents Claims Tribunal Patiala (hereinafter referred to as 'the Tribunal'), awarding compensation of ₹3,84,000/- along with interest @ 12% per annum to the respondents-claimants on account of death of Karnail Singh, in a motor vehicular accident on 14.03.1993.

2. Sole argument of learned counsel for the appellant is that on application having been moved by the appellant for summoning of the concerned official from the office of the licensing authority, Cuttack, summons were issued and despite service none put in appearance. Learned counsel contends that instead of resorting to coercive measures to ensure presence of the concerned official from the O/o Licensing Authority, Cuttack, the evidence of the appellant was closed by the learned Tribunal

and eventually the claim allowed by recording that no evidence had been led by the insurance company to prove that the license of the driver of the offending vehicle was not valid. Learned counsel contends that in the circumstances, the appeal is liable to be accepted, award set aside, matter remanded to the learned Tribunal to summon the concerned official from the O/o Licensing Authority, Cuttack and thereafter to decide the matter in accordance with law.

3. Per contra, learned counsel for respondent Nos.4 and 5, contended that a valid driving license had been issued by the Licensing Authority Cuttack and further that the same had been renewed by the Licensing Authority, Patiala. Learned counsel contended that the learned Tribunal dismissed the application of the appellant-Insurance Company for summoning of the concerned official from the O/o Licensing Authority on 25.04.1995 but the appellant did not challenge the said order nor has any material been placed on record along with the appeal as may have been obtained during the intervening period of close to 24 years to show that the license relied upon by the respondent-driver was not valid.

4. I have considered the submissions of learned counsel for the parties.

5. The claim petition was resisted by the Insurance Company on the ground that the driving license of the driver of the offending vehicle i.e. respondent No.4 herein was fake. However, despite taking up the plea that the driving license issued by the Licensing Authority, Cuttack was fake, the Insurance Company failed to prove the said fact before the learned

Tribunal. The compensation awarded by the learned Tribunal is stated to have been paid to the respondents-claimants in view of no stay having been granted by this Court while admitting the appeal on 08.12.1995. A perusal of the record reveals that summons were issued in the name of concerned officials of Licensing Authority, Cuttack with the appellant being required to produce the said witness at its own risk and responsibility. Therefore, in the absence of failure of the appellant-Insurance Company to produce the concerned official from the O/o Licensing Authority, Cuttack, no fault can be found with the order of the learned Tribunal closing evidence of the appellant. Besides order dated 25.04.1995 was never challenged nor has any evidence whatsoever been placed on record during the intervening period of close to 24 years during the pendency of the appeal before this Court to show that the driving license issued by the Licensing Authority, Cuttack to the respondent-driver was not valid. Apart from the above, the driving license issued by the Licensing Authority, Cuttack in the name of respondent No.4-driver of the offending vehicle was renewed by the Licensing Authority, Patiala.

6. In the circumstances, I do not find any circumstances warranting interference with the award passed by the learned Tribunal.

7. Accordingly, the appeal is dismissed.

January 17, 2019

rajesh.k.khurana

(B.S.Walia)
Judge

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