

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

1.

FAO No. 895 of 1997(O&M)

Date of Decision: January 23 , 2019.

National Insurance Company Ltd.

..... APPELLANT(s)

Versus

Savitri Devi and others

..... RESPONDENT (s)

2.

FAO No. 897 of 1997.

National Insurance Company Ltd.

..... APPELLANT(s)

Versus

Satish Kumar and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Neeraj Khanna, Advocate and
Mr. Ravinder Arora, Advocate
for the appellant.

Mr. Rohit Nagpal, Advocate
for respondent No.4/owner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This order shall dispose of FAO No.895 of 1997 (National Insurance Company Ltd. v. Savitri Devi and others) and FAO No.897 of 1997 (National Insurance Company Ltd. v. Satish Kumar and others) as both the abovenoted

appeals arise out of a common award dated 22.01.1997 passed by the learned Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as, the 'Tribunal'). These appeals have been filed by the Insurance company challenging their liability to pay compensation awarded to the claimants in both the petitions.

Brief facts necessary for the adjudication of the case are that, two separate claim petitions under Section 166 of the Motor Vehicles Act, 1988 were filed by the claimants i.e., MACT Case No.68/94 (subject matter of FAO No.895 of 1997) by Savitri Devi and Ram Kishan, parents of the deceased – Lokesh claiming compensation to the tune of ₹5,00,000/- on account of death of their son and MACT Case No.71/94/95 (subject matter of FAO No.897 of 1997) by the injured – Satish Kumar claiming compensation to the tune of ₹2,00,000/- on account of the injuries received by him in the motor vehicle accident which took place on 31.01.1994. It is pleaded in the claim petitions that, Lokesh (deceased) alongwith his friend Satish Kumar (injured-claimant) were going to Delhi on a scooter on 31.01.1994. The scooter was being driven by Lokesh (deceased) at a moderate speed on the correct side of the road. When they reached at village Kheri Sadh at about 8.30 a.m., a canter bearing registration No.HR-12/4752 being driven by respondent No.3-Rajbir in a rash and negligent manner, without blowing horn, came from Delhi side, struck against the scooter being driven by Lokesh and dragged the scooter for some distance. Both the scooterists received injuries. They were removed to the Medical College and Hospital, Rohtak. However, Lokesh succumbed to the injuries on 04.02.1994. FIR No.29/94 under Sections 279/304A IPC (Ex.P9) was lodged at Police Station Sampla against the driver of the offending canter on the statement of PW4 Suresh Kumar.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of canter bearing registration No. HR-12/4752 by respondent No.3 – Rajbir. The learned Tribunal awarded a sum of ₹1,20,000/- to the claimants in MACT Case No.68/94 and ₹50,000/- was awarded to the injured-claimant in MACT Case No.71/94/95. It was observed that even if the driving licence (Ex.R1) held by respondent No.3-Rajbir is reported to be fake by the Motor Licencing Office (M.O.), Delhi, the same would clothe it with validity on its subsequent valid renewal as observed in National Insurance Company Ltd. v. Sucha Singh and others, 1994(1) PLR 140. Therefore, liability of the Insurance company to pay the compensation was fixed.

Present appeals have been filed by the Insurance company restricted to the question of liability of the Insurance company to pay the compensation.

Learned counsel for the appellant submits that Sucha Singh's case (supra) relied on by the learned Tribunal has since been overruled. Valid renewal of a licence cannot clothe it with genuineness, once it is established that the licence in question was fake. It is submitted that the Insurance company should be exonerated from its liability to pay the compensation in this case and it be afforded the right to recover the amount from the owner/driver of the offending canter. It is thus prayed that these appeals be allowed.

Learned counsel for respondent No.4/owner, on the other hand, submits that though renewal of a driving licence definitely can not confer validity on the same, but the driving licence held by the driver in the present case is not proved to be fake on the basis of the evidence on record. Moreover, there is

nothing on record to indicate that the owner of the offending vehicle did not take due care and caution in examining the licence of the driver at the time of engaging his service. Therefore, it is prayed that these appeals be dismissed.

I have heard learned counsel for the parties and have gone through record.

Present is a case in which the files were burnt in the fire which took place on the High Court premises in the year 2011 and the same have been reconstructed.

The appellant-Insurance company relies upon a report (Ex.R2) for claiming the driving licence (Ex.R1) to be a fake. In this respect, RW3 Ravinder Saini, LDC, Licencing Branch, Mall Road Unit, Delhi has been examined. In his testimony, RW3 Ravinder Saini stated that Licence No.9012537 was not issued by them in the name of Rajbir Singh son of Zile Singh. Cross-examination of the RW3 Ravinder Saini reads as under:-

“XX XX XX XX

In 1990, there were 5 licencing authorities in Delhi. There is possibility of this licence being issued by licencing authority of Delhi. Licence No.90 depicts about the year and 12 for the month and then there is depiction of serial number of licence. Same serial number continues in all the authorities in Delhi, in 1990. Now there is separate system. **There is a possibility that Ex.R1 might have been issued by some other authority of Delhi, bearing No.5237. (Emphasis added)** Apart from register, which I have brought other record relating to this licence is in our authority that I have not brought today in court. Ex.R1 seems to be the renewal number of licence i.e. 385877.”

Perusal of the cross-examination of RW3 Ravinder Saini clearly

reveals that it cannot be conclusively held that the driving licence (Ex.R1) held by Rajbir was a fake document. RW3 clearly admitted that there is a possibility of Ex.R1 being issued by some other licencing authority at Delhi. Therefore, though the learned Tribunal has clearly erred in concluding that in the event of valid renewal of a license, it can be conferred with validity, the finding of the learned Tribunal that the Insurance company is liable to indemnify the insured is upheld for the reason that the license is not proved to be fake on the basis of the evidence on record.

Needless to say that it was incumbent upon the Insurance company to have proved that the driving licence held by the driver of the offending vehicle was not genuine. Evidence on record does not indicate the driving licence (Ex.R1) to be a fake document.

No other argument has been raised.

Keeping in view the facts and circumstances as above, there is no ground to interfere in the impugned award dated 22.01.1997 passed by the learned Motor Accident Claims Tribunal, Rohtak which may warrant interference by this Court at the instance of the Insurance company.

Both the appeals are accordingly dismissed, with no order as to cost.

(LISA GILL)
JUDGE

January 23 , 2019.
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No