(211) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3592 of 1999 (O&M)
Date of decision: 07.03.2019

National Insurance Company Ltd. …. Appellant

Versus

Moti Lal Gupta and others …. Respondents

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

Present: Mr. Ravinder Mohan Suri, Advocate for the appellant.
Mr. M.S. Rana, Advocate for respondent No.1.
None for respondent No.2.

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B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the Insurance Company against award dated 05.08.1999 passed by the learned Motor Accidents Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') awarding compensation of ₹ 1,03,864/- on account of 40% permanent disability suffered by respondent No.1 in a motor vehicular accident on 01.08.1997 caused due to rash and negligent driving of truck bearing registration No. DL-IG-2003.

[2] The main plea put forth by the Insurance Company at the time of motion hearing on 07.03.2018 was that the Insurance Company had not been given an effective opportunity to prove that the driving licence allegedly issued in favour of respondent No.3 – Netar Pal, driver of the offending truck was not genuine. In the circumstances, the matter was remitted by this Court to the learned Tribunal to give an opportunity to the parties to lead evidence qua genuineness of the driving licence issued in

favour of respondent No.3–Netar Pal and thereafter, to submit its report after considering the evidence led by the parties.

[3] Pursuant to the order of this Court dated 07.03.2018, the learned Tribunal has forwarded award/report dated 18.09.2018 holding that the driving licence (Ex.RX) as relied upon by respondent No.2-owner in favour of driver-Netar Pal was a fake driving licence as it had not been issued by the authority which is purported to have issued the same and that in the circumstances, the Insurance Company could not be fastened with liability to pay compensation. In the aforementioned background, the learned Tribunal while taking into account the fact that the offending vehicle was insured at the relevant time, ordered that after making payment of compensation to the claimant, the Insurance Company would have the right to effect recovery from the owner and driver of the offending vehicle. Accordingly, issue No.3 was decided in favour of the Insurance Company and against respondent Nos.1 and 2.

[4] No one has put in appearance on behalf of respondent No.2, despite service and representation earlier by counsel. Accordingly, respondent No. 2 is proceeded ex parte.

[5] Since the appeal is of the year 1999, therefore, I am not inclined to adjourn the matter any further.

[6] In view of the award/report dated 18.09.2018 by the learned Tribunal holding that the driving licence (Ex.RX) of respondent No. 3 driver-Netar Pal as relied upon by respondent No.2-owner was a fake driving licence and the Insurance Company was granted recovery rights after making payment of compensation to the respondent/claimant, no further orders are called for. Accordingly, appeal disposed of in view of fresh award

dated 18.09.2018 to the extent that after making payment of the awarded amount to respondent No.1-claimant, the Insurance Company would be at liberty to recover the payment made from respondent No.2-owner in accordance with law.

(B.S. Walia)
Judge

07.03.2019
amit

1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.