

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 5364 of 2006 (O&M)
Date of decision: 09.12.2019

Ramphal

...Appellant

V/s.

Somwati and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Dheeraj Mourya, Advocate for
Mr. Sandeep Kotla, Advocate
for the appellant.

Ms. Shamsheer Kaur, Advocate
for the respondent-insurance co.

RITU BAHRI, J. (Oral).

The present appeal has been filed by the driver against the award of the Tribunal dated 19.07.2006 whereby compensation of Rs.4,41,500/- was granted to the claimants on account of death of Pawan Kumar, which took place on 18.07.2004.

The brief facts of the case are that on 18.07.2004 at about 5:30 a.m., Raj Singh (PW2) and Joginder son of Samunder, residents of village Jakhoda, Tehsil Bahadurgarh, District Jhajjar were going on a Scooter to HNG. Factory, Bahadurgarh where they were employed. Pawan Kumar son of Mange Ram, nephew of Raj Singh (PW2) was also going on a motor-cycle carrying milk drums for selling milk in Bahadurgarh City. When they had reached near Arti Food Factory, a Tata-407 bearing registration No.HR39/6419 came from the side of Bahadurgarh being driven by respondent No.1 in a zig-zag manner and at a high speed and hit the motor-

cycle being driven by Pawan Kumar, who fell down on the road and suffered multiple injuries, leading to his death on the spot. Consequently the claimants filed claim petition before the Tribunal.

A perusal of the award dated 19.07.2006 shows that respondent No. 1/driver was served and Mr. S.N.Yadav, Advocate appeared on his behalf and tendered copies of driving licence (Ex. R1), insurance policy (Ex. R2) and permit (Ex.R3). The driving licence (Ex.R1) had been issued by the Licensing Authority, Hansi and the insurance company did not verify this driving licence (Ex.R1). However as per the verification report (Ex.R5) the driving licence (Ex.R7) which was issued by the Licensing Authority, Bulandhsharh (UP) was found to be forged, invalid and illegal.

Learned counsel for the appellant says that this driving licence (Ex.R1) was a valid driving licence and keeping in view this aspect, recovery rights cannot be given to the insurance company.

In the present case, reference can be made to a Division Bench judgment passed in ***United India Insurance Company Limited V/s. Raj Rani*** 1998(1) ACJ 175 in which driver was having two driving licences and both the driving licences were in the knowledge of insurance company. However the insurance company has chosen not to verify another driving licence and hence in the absence of verification of another driving licence, finding cannot be given that the driving licence was forged.

Learned counsel for the insurance company has referred to a judgment passed by this Court in ***Shri Ram General Insurance Co. Ltd. V/s. Asha and others*** 2014(3) PLR 458. This judgment will not be of any help to the insurance company because in this case, the driver had one driving licence which was found forged and subsequently he came up with

another driving licence and this driving licence could not be made basis to make insurance company liable for payment of compensation. In the present case, at the initial stage, the driver had placed driving licence (Ex.R1) and insurance company has chosen not to verify this driving licence.

Keeping in view the Division Bench judgment passed in *United India Insurance Company Limited V/s. Raj Rani* 1998(1) ACJ 175, the appeal of the driver is being allowed since the insurance company despite having knowledge of driving licence (Ex.R1) did not take any step to verify it and the vehicle was being driven along with permit (Ex.R3). Award dated 19.07.2006 is being modified that the liability to make the payment of compensation is joint and several of all the respondents. The statutory amount of Rs.25,000/- deposited alongwith appeal shall be returned to the appellant.

Pending application, if any, also stands disposed of.

(RITU BAHRI)
JUDGE

09.12.2019
Divyanshi

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