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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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1. **FAO No.5715 of 2010 (O&M)**
Date of Decision : 28.03.2019

United India Insurance Co. Ltd.

Appellant

Versus

Ravinder Pal Singh and others

Respondents

2. **FAO No.5716 of 2010 (O&M)**

United India Insurance Co. Ltd.

Appellant

Versus

Brij Mohan and others

Respondents

3. **FAO No.5717 of 2010 (O&M)**

United India Insurance Co. Ltd.

Appellant

Versus

Saranjeet Kaur and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vinod Gupta, Advocate
for the appellant.

None for the claimants.

Mr. Atul Gaur, Advocate
for the owner and driver.

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AVNEESH JHINGAN, J (Oral):

These are three appeals filed by the Insurer of Truck bearing registration No. HR-38B-2015 [hereinafter referred to as 'offending vehicle'] against award dated 07.08.2010 passed by

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the Motor Accident Claims Tribunal, Sirsa [for brevity 'the Tribunal']. Since all the appeals arise out of the same accident and one award, these are being disposed of by a common order.

The facts with regard to accident are not in dispute. A motor vehicular accident took place on 13.02.2008. FIR No.20, dated 14.02.2008 was registered. The said accident was result of rash and negligent driving of the offending vehicle. In the accident there were two casualties and one person sustained injuries. Three separate claim petitions were filed under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act']. The Tribunal awarded compensation and held driver, owner and insurer of the offending vehicle liable to pay the compensation. The issue with regard to genuineness of Driving Licence produced as Ex.RA was raised. It was pleaded that the driver of the offending vehicle was Randhir Singh, whereas his name on the Driving Licence was written as Bheera. The Tribunal relied upon the photograph affixed on the Driving Licence and statement of owner of the offending vehicle to say that Randhir Singh and Bheera are same person and held that driving licence was genuine. Aggrieved of liability to pay the compensation, insurance company has filed the present appeal.

It was found that originally the driver of the offending vehicle produced one Driving Licence, which on verification, was found fake. Lateron, he produced another Driving Licence which is taken to be correct by the Tribunal but no opportunity was

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granted to the insurer to verify the same. The matter was remitted to enable the driver to produce the Driving Licence thereafter to provide opportunity to the insurer to verify the same and the report was asked for.

In pursuance to the order of this Court, the report dated 31.01.2019 has been submitted by the Additional District & Sessions Judge, Sirsa. It has been opined that as per information received through RTI, Driving Licence No. 15152/MTR/2003, dated 03.11.2013 was issued by the Transport Authority, Mathura (U.P.) in the name of Alka Chaudhary d/o Narender Pal Singh r/o Mathura. Relying upon it, it is reported that Driving Licence produced lateron was not in the name of driver of the offending vehicle.

Learned counsel for the owner and driver challenges the report stating that no official was summoned. In the present case, there is no occasion to doubt the information received under Right to Information Act, 2005. Apart from technical plea, the learned counsel for the owner and driver could not raise any serious objection to challenge the information received.

In order to balance the equities, the matter with regard to liability to pay compensation is remitted back to the Tribunal to decide the issue with regard to genuineness of the Driving Licence produced after affording opportunity to the parties to adduce fresh evidence in support of their claims.

The owner and driver of the offending vehicle have

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not even bothered to apply for information under RTI Act, 2005 with regard to genuineness of the Driving Licence.

The matter is remanded back to the Tribunal subject to payment of costs of ₹25,000/- (inclusive for all the three appeals), to be paid by owner and driver of offending vehicle, in favour of the Poor Patient Welfare Fund of Post Graduate Institute of Medical Education & Research (PGIMER), Chandigarh within one month. In case of failure to deposit the costs, the appeals shall be considered to be allowed.

The parties are directed to appear before the Tribunal on 09.05.2019.

These are old cases in which appeals are pending since 2010, it would be desirable that the Tribunal shall decide the same within six months.

[AVNEESH JHINGAN]
JUDGE

March 28, 2019
pankaj baweja

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

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