

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

FAO 3872 of 2011 (O&M)
Date of decision: 11.02.2019

New India Assurance Co Limited

Appellant

versus

Satinder Singh Lamba and others

Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Paul S Saini, Advocate
for the appellant

None for respondent No. 1

Mr. Navneet Singh, Advocate
for respondents No. 2 and 3

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Rekha Mittal, J. (Oral)

The appeal has been preferred by the appellant-insurance company only on the aspect of offending vehicle being plied without a valid permit.

Counsel for the insurance company has argued that Dhan Raj Yadav, owner of the offending vehicle did not produce permit before the Tribunal for necessary verification by the insurance company, therefore, adverse inference is liable to be drawn against the owner that Bus was being plied without a permit. However, he has fairly informed that the Tribunal has not addressed the question of vehicle being plied without a permit despite a specific plea having been raised by the insurance company in the written statement and issue No. 3 was framed in that regard.

Counsel representing respondents No. 2 and 3 would pray that the matter may be remitted to the Tribunal for deciding issue of permit, in accordance with law.

The Tribunal has framed issue No. 3, reads thus:-

“3) whether respondent No. 3 is exonerated from liability for the reasons indicated in the preliminary objections?OPR3.”

Perusal of the award would reveal that the Tribunal has not decided issue No. 3. However, while deciding issues No. 1 and 2, taken up jointly, the Tribunal has held that all the respondents being driver, owner and insurer are jointly and severally liable to pay the amount of compensation. Since the Tribunal did not decide issue No. 3, in view of preliminary objections raised by the insurance company, the matter is required to be remitted to the Tribunal for deciding the said issue in accordance with law and thereafter ascertain if the insurance company is jointly and severally liable to pay compensation or what is the effect of vehicle being plied without permit, if it is so.

In view of what has been discussed herein-before, the appeal is partly allowed and the matter is remitted to the Tribunal for deciding issue No. 3, afresh, in accordance with law. Parties through their counsel are directed to appear before the Tribunal on 26.02.2019. The Tribunal would decide issue No. 3 within three months of parties putting in appearance.

(Rekha Mittal)
Judge

11.02.2019
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