

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

(I)

FAO No.5791 of 2011 (O&M)
Date of Decision: 15.01.2019

Irfan

...Appellant

Versus

Ritu and others

....Respondents

AND

(II)

FAO No.5831 of 2011 (O&M)
Date of Decision: 15.01.2019.

Irfan

...Appellant

Versus

Jai Bhagwan and others

....Respondents

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

Present: Mr. Sandeep K. Sharma, Advocate for the appellant
in both appeals.

Mr. N.K. Malhotra, Advocate for respondent Nos.1 and 2 (in
FAO No.5791 of 2011) and for respondent No.1 in FAO
No.5831 of 2011.

Service of respondent No.3 (in FAO No.5791 of 2011) and
respondent No.2 (in FAO No.5831 of 2011) dispensed with
vide order dated 27.01.2015.

Mr. D.P. Gupta, Advocate for respondent No.4 in FAO
No.5791 of 2011 and respondent No.3 in FAO No.5831 of
2011.

B.S.WALIA, J (Oral).

CM No.21834-CII of 2011 in
FAO No.5791 of 2011 and
CM No.22097-CII of 2011 in
FAO No.5831 of 2011

1. This order shall decide FAO Nos.5791 and 5831 of 2011, as common questions of law and facts are involved.
2. Appeals have been filed by the driver of the offending vehicle praying for setting aside of recovery rights granted in favour of the Insurance Company on the ground that the finding recorded by the learned Motor Accidents Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') that the driving license produced by the appellant was not valid is contrary to the verification of the license got done by the Insurance Company on an application filed by the appellant under Order 41 Rule 27 of the Code of Civil Procedure.
3. At the very outset, learned counsel for the appellant has brought to the notice of the Court that in the reply to the application for leading additional evidence filed by the Insurance Company, in line No.2 of paragraph No.4 of the reply, it has been wrongly mentioned that '*the answering respondent has not verification that license No.5035/AG/06 was issued in the name of Irfan S/o Sh. Iqbal on 17.05.2006 and it was valid for motorcycle LMV (NT) and TV (PE). It was renewed 21.09.2007 to 20.09.2010.*' Learned counsel contends that a perusal of Annexure A-1 reveals that in fact the aforementioned driving license was issued in the name of the appellant and was valid as on the date of accident and that in the circumstances the words 'not verification' used in the second line of paragraph No.4 of the reply to the application for leading additional evidence was an inadvertent typing mistake and the same be read as 'got verified'. Learned counsel further contends that in the circumstances the

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appeals are liable to be allowed and impugned award in as much as it orders grant of recovery rights against the appellant is liable to be set aside.

4. Learned counsel for the respondent-Insurance Company concedes that the use of the words 'not verification' in the second line of paragraph No.4 of the reply is in fact an inadvertent typographical mistake and in the circumstances, the same be read as 'the answering respondent has **got verified** that license No.5305/AG/06 was issued in the name of Irfan S/o Sh. Iqbal on 17.05.2006 and it was valid for motorcycle LMV (NT) and TV (PE). It was renewed 21.09.2007 to 20.09.2010. In the light of aforementioned stand of learned counsel for the parties, application for leading additional evidence is allowed. Learned counsel for the respondent-Insurance Company is allowed to make necessary correction under his initials in line No.2 of paragraph No.4 of the reply to application for leading additional evidence.

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5. Consequently, the finding of the learned Tribunal granting recovery rights to the Insurance Company and consequently award to said extent qua the appellant is set aside.

6. Accordingly, the appeals are allowed and award dated 09.03.2011 is set aside to the extent as noted above.

(B.S.WALIA)
JUDGE

15.01.2019
rajesh.k.khurana

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