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

**FAO No.244 of 2012 (O&M)
Date of Decision: March 20, 2019.**

Jasbir Singh

..........APPELLANT(s).

VERSUS

United India Insurance Company and others

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Anuj Balyan, Advocate
for the appellant (s).

Mr. Vinod Chaudhari, Advocate
for respondent No.1.

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SURINDER GUPTA, J.

CM-7140-CII-2014

This is application under Order 41 Rule 27 read with Section 151 CPC to produce on record licence of driver Shiv Kumar, who at the time of accident, was driving truck bearing registration No.HR-37B-0973 (later referred to as the offending vehicle) as Ex.AX.

Copy of the driving licence was earlier supplied to learned counsel for respondent No.1 (insurer of the offending vehicle), who submits that same, on verification from the competent authority, was found in order. He has, however, opposed application filed by appellant seeking production of driving licence in additional evidence and argued that it was not produced by the appellant during the course of trial before the tribunal, as such, cannot be allowed to produce it at this stage as the appellant has not come up with any explanation for not producing it earlier.

Motor Accident Claims Tribunal, Panchkula (later referred to as the tribunal), while passing the award dated 29.09.2011, has observed that for want of any evidence regarding holding of valid and effective driving licence at the time of accident by Shiv Kumar, driver of the offending vehicle (respondent No.2), insurer of the offending vehicle is entitled to recover the compensation awarded to claimants, from the owner and driver of the offending vehicle. It appears that driving licence was not given at the stage of trial before the tribunal to the insurer of the offending vehicle by appellant or respondent No.2. Now, it has come on record that respondent No.2-Shiv Kumar, driver of the offending vehicle, was holding a valid driving licence at the time of accident. It is a document issued by competent authority as such cannot be fabricated, particularly when the insurer has got it verified and found the same valid and genuine. As such, the appellant is allowed to produce the same at this stage.

The application filed by the appellant under Order 41 Rule 27 CPC is allowed accordingly.

Learned counsel for insurer has submitted that driving licence has been verified and found in order, as such, he has not to lead any evidence in rebuttal to the evidence produced by the appellant.

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Recovery rights were allowed to the insurer (respondent No.1) of the offending vehicle against owner (appellant) and driver (respondent No.2) only on the ground that appellant has not produced the driving licence of Shiv Kumar, respondent No.2 on record.

As the driving licence produced has been got verified and found to be valid and effective on the day of accident, insurer of the offending vehicle cannot be allowed right to recover the amount of compensation paid to the claimants from the appellant and respondent No.2.

This appeal was only on this short ground, as such, the same is allowed. The award passed by the tribunal is modified to the extent that the right given to insurer of the offending vehicle (respondent No.1) to recover the amount of compensation awarded to the claimants from owner (appellant) and driver (respondent No.2) is withdrawn and insurer of offending vehicle is held liable to indemnify the insured by paying the compensation as awarded by tribunal.

(SURINDER GUPTA)
JUDGE

March 20, 2019.
Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***