

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO NO.2556 of 2012 (O&M)
Date of Order: 13.03.2019

Amarjodh Singh

..Appellant

Versus

Harchand Singh and others

..Respondents

FAO NO.4832 of 2012 (O&M)

Harchand Singh and others

...Appellants

Versus

Amarjodh Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jatinder Pal Singh, Advocate,
for the appellant (in FAO NO.2556 of 2012)
for respondent no.1(in FAO No.4832 of 2012)

Mr. R.S.Sekhon, Advocate,
for the appellants (in FAO No.4832 of 2012)
for respondents no.1 to 3(in FAO No.2556 of 2012)

Mr. Rajneesh Malhotra, Advocate,
for respondent no.2(in FAO No.4832 of 2012)
for respondent no.4 (in FAO No.2556- of 2012)

Mr.Vishal R. Lamba, Advocate,
for legal heirs of respondent no.1(in FAO No.2556-2012)

ANIL KSHETARPAL, J(Oral)

Owner as well as claimants have filed these 2 appeals against the award passed by the Motor Accident Claims Tribunal, Ferozepur, (hereinafter referred to as 'the Tribunal') absolving the Insurance Company on the ground that the insurance policy is not genuine. Along with the

appeal, an application for additional evidence was filed for permission to place on record the original insurance policy as well as driving license. Notice of the application was given to the Insurance Company and on 08.01.2019 this court had recorded the order as under:-

“Learned counsel appearing for the Insurance Company has stated that the insurance policy has been verified to be genuine. He further submits that for verification of the driving licence of respondent No.1, an Investigator was appointed by the Insurance Company who has verified the driving licence at Ferozepur and was able to lay hand on the record which proves that the licence was renewed. However, the old record when driving licence was prepared, is not available.

Learned counsel prays for short accommodation to make a last attempt to verify the correctness of the original driving licence issued in the year 1992.

It is clarified that if the Insurance Company is not able to find the record when the original licence was issued, this Court would be compelled to draw inference that the driving licence as issued was genuine.

List in urgent on 28.01.2019.

A photocopy of this order be placed on the file of other connected case.

In view of the statement given by learned counsel representing the Insurance Company, it is clear that the insurance policy is genuine.

However, learned counsel appearing for the Insurance Company submits

that the Insurance Company has been able to verify that the driving licence was renewed but the old record when the driving licence was issued is not available. Learned counsel for the Insurance Company even today has submitted that the Insurance Company is unable to verify this fact.

On the other hand, learned counsel appearing for the claimants has submitted that the award passed by the learned Tribunal assessing compensation payable is on the lower side. He has further submitted that the bills for medical expenses to the tune of more than Rs.3,11,000/- were proved but the court only granted Rs.15,000/- on the basis of Schedule-II attached to the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). Learned counsel for the appellant has submitted that the aforesaid Schedule is applicable only in the claims filed under Section 163-A of the Act and not applicable to the claim petitions filed under Section 166 of the Act.

Learned counsel appearing for the Insurance Company has submitted that since the authority which issued the driving licence is not cooperating, therefore, the official from the Regional Transport Authority which issued the licence, required to be summoned and examined.

Keeping in view the facts that all the parties are aggrieved of the award passed by the Tribunal and the manner of disposing of the case by the Tribunal is not satisfactory, therefore, the award passed by the Tribunal is set aside and both the appeals are remitted back to the learned Tribunal to decide the cases afresh after granting opportunity to all the parties to lead further evidence. It may be noted that the owner has already paid the awarded amount to the claimants which shall not be recovered from the claimants till the decision of the cases by the learned Tribunal.

The application for additional evidence is allowed.

Parties through their counsels are directed to appeal before the learned Motor Accident Claims Tribunal, on 02.04.2019.

Both the appeals are disposed of.

March 13, 2019
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(ANIL KSHETARPAL)
JUDGE

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