

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

F.A.O No. 5684 of 2012 (O&M)

Date of decision:- 24.07.2019

Mahabir Singh

...Appellant

Versus

Naveen Kumar and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. M.K. Garg, Advocate
for the applicant-appellant.

Mr. Suvir Dewan, Advocate
for respondent No. 3-Insurance Company.

RITU BAHRI J.

C.M. No. 26250-CII-2012

For the reasons mentioned in the application, delay of 166 days
in refiling of the appeal stands condoned.

The application stands disposed of.

C.M.No. 26253-CII-2012

Application is allowed as prayed for.

Accordingly, Annexure A-1 to A-2 are taken on record.

FAO No. 5684-2012

The present appeal has been preferred by the owner-appellant
(for short 'the appellant') against the award dated 21.12.2011 passed by the
learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal')
granting the recovery rights to the Insurance Company against the present
appellant.

The issue in this case is as to whether the appellant, who is the

owner of the vehicle in question, is liable to pay compensation to the claimants/respondent No. 1 to 3, or as to whether the respondent-insurance company is entitled to recover the compensation awarded by the Tribunal, in its impugned award. The vehicle owned by the appellant, driven by respondent No. 4 herein, met with an accident resulting into the death of Jai Bhagwan.

Learned counsel for the appellant at the very outset submits that the learned Tribunal has given recovery rights to the Insurance Company against the appellant on the ground that the driving licence of the driver was not genuine.

Learned counsel for the appellant has placed on record the copy of permit (A-1) which was valid from 12.01.2006 to 31.12.2022 (valid for Motorcycle and LMB (NT) and a reply has been filed by the Insurance Company admitting that driving licence of Naveen Kumar was verified from Licencing Authority, M.V Department, Farrukhabad and it has been reported that as per report of A.R.T.O Farrukhabad, according to enquiry in the record of driving licence No. 5806/Fkh/06 is mentioned for Motorcycle and L.M.V (Pvt) valid from 12.01.2006 to 31.12.2022, as per verification report. The license has been found to be genuine.

Learned counsel for the Insurance Company stated that driving licence of the driver was found to be genuine. However, it has been argued that the fee has not been deposited at the time of renewal of license.

This argument is liable to be rejected, as only on the technical issue, the Insurance company cannot be absolved of its liability to pay compensation.

In view of the reply filed by the Insurance Company, the award dated 21.12.2011 is modified to the extent that the appellant is not liable to pay compensation to the claimant and the Insurance Company is liable to make the payment of entire compensation to the claimants.

The appeal stands partly allowed to the above extent.

Further it is hereby directed that the amount of Rs.25,000/- deposited by the appellant at the time of filing of appeal, vide draft No. 267905 dated 20.03.2012 in the Registry of this Court be returned to him.

24.07.2019

G Arora

(*RITU BAHRI*)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No