IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1955 of 2014 (O&M)
Date of decision: 19.11.2019

New India Assurance Company Limited
….Appellant

Versus

Surjeet Singh and others
….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.C. Kapoor, Advocate,
for the appellant.

Mr. Chetan Kapoor, Advocate,
for Mr. Suneet Sharma, Advocate,
for respondent Nos. 2 and 3.

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RITU BAHRI J. (Oral)

New India Assurance Company Limited-appellant has come up in appeal against the awarded dated 22.02.2014 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.1,39,834/- has been awarded in favour of claimant-respondent No. 1 on account of injuries received by him in a motor vehicular accident which took place on 29.05.2012.

The appellant is challenging the finding given by the Tribunal on issue No.3, whereby all the respondents i.e. driver, owner and insurer (appellant) have been jointly and severally held liable to make payment of compensation.

Learned counsel for the appellant has argued that only driver and owner i.e. respondent Nos.1 and 2 (in claim petition) should have been held liable to make payment keeping in view that before the Tribunal, after being served, they did not appear and were proceeded against exparte.

Heard.

Before the Tribunal, insurance company (appellant herein) had placed on record driving licence Ex.R2 and original report of the Licensing Authority Ex.R3 to show that the driving licence of the driver was fake. In the absence of any evidence led by driver and owner-respondent Nos.1 and 2 (respondent Nos.2 and 3 herein), recovery rights ought to have been given to the insurance company.

The Tribunal has referred to the judgment passed by Hon'ble the Supreme Court in ***Pepsu Road Transport Corporation vs. National Insurance Company,*** 2013 (4) RCR (Civil) 273 on the proposition that if, an owner hires a driver, he had to satisfy that driver had valid driving licence and had competency to drive. In that case, it has been held that owner is not expected to go to the extent of verifying the genuineness of the driving license with the licensing authority.

The aforesaid judgment would come to the help of the owner only, if he had put in appearance and had seen the driving licence. Since the owner did not put in appearance, this benefit cannot be extended to him.

A perusal of Accident Information Report Ex.R3, driving licence No.12315 in the name of Deewan Singh son of Kamal Singh has been issued by the Licensing Authority, Mathura. However, in order to rebut this evidence, the driver and owner did not appear before the Tribunal and were proceeded against exparte. The owner of offending vehicle should have appeared before the Tribunal to state that he had taken abundant caution while employing Deewan Singh as driver on his vehicle and had seen his driving licence. Since, owner and driver had failed to rebut the evidence led by the Insurance Company, the impugned award, to the extent of liability, is liable to be modified.

Resultantly, the impugned award is modified and the Insurance Company shall make payment of compensation and thereafter, it can recover the same from the owner and driver in accordance with law.

Allowed accordingly.

(RITU BAHRI)
JUDGE

19.11.2019
ajp

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