

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

FAO No. 3680 of 2013

DECIDED ON: FEBRUARY 07, 2019

ROSHAN LAL (DECEASED) THROUGH L.R.

.....APPELLANT

VERSUS

MUKESH AND OTHERS

.....RESPONDENTS

AND

FAO No. 3817 of 2013

THE NEW INDIA ASSURANCE CO. LTD.

.....APPELLANT

VERSUS

ROSHAN LAL AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

**Present: Mr. Rajbir Singh, Advocate
for the appellant in FAO No. 3680 of 2013 and
for respondent No.1 in FAO No. 3817 of 2013**

**Mr. Gautam Kaile, Advocate for
Mr. Ashwani Antil, Advocate
for respondent No.2 (owner) in FAO No. 3680 of 2013 and
for respondent No.3 (owner) in FAO No. 3817 of 2013.**

**Mr. D.K. Prajapati, Advocate for
Mr. R.S. Madan, Advocate
for the respondent-Insurance Company.**

AVNEESH JHINGAN, J (ORAL)

The aforesaid two appeals are being disposed of by a common order as the same are arising out of the same accident and same award.

The award dated 16.04.2013 passed by the Motor Accident Claims Tribunal, Sangrur (for short 'the Tribunal') has been assailed by filing two appeals, one by the claimant and another by the insurer of Tanker bearing registration No. HR-38-K-3409 (hereinafter referred to as the 'offending vehicle').

The grievance raised by the insurer in appeal bearing FAO No. 3817 of 2013 is that only the photocopy of driving licence was produced, from the perusal thereof, it was evident that the driving licence was valid and effective for driving Light Motor Vehicle (LMV) and was issued for 20 years.

Learned counsel for the owner defended the award and contended that the driver was having a valid driving licence.

From the perusal of record, it is evident that the holder of the driving licence is licenced to drive motor car with gear, motor car without gear and light motor vehicle. Though in the award it was held that he was holding a driving licence to drive Heavy Motor Vehicle.

Factual aspects need to be decided afresh. Firstly, regarding the original driving licence and secondly, whether it was valid for driving the offending vehicle. For deciding these issues evidence would be required to be adduced.

The matter is remitted back to the Tribunal to decide the issue of liability afresh after affording an opportunity to the parties concerned to adduce

evidence in support of their claim, if so desires.

FAO No. 3680 of 2013

Learned counsel for the appellant contends that medical bills worth ₹12,29,959/- were produced before the Tribunal but only an amount of ₹3,96,052/- was paid to the claimant on account of treatment. He further submits that the original bills are on record before the Tribunal, which have been duly proved by various depositions.

Learned counsel for the insurer submits that an opportunity be given to the Insurance Company to verify and to rebut the same.

The matter with regard to quantum of compensation qua remaining original medical bills available on record, is remitted back to the Tribunal. The Tribunal shall afford an opportunity to the parties concerned to prove or to rebut the same.

The accident is of 2010 and it would be desirable that the Tribunal decides the matter expeditiously.

Both the appeals are disposed of, in the afore-said terms.

Parties are directed to appear before the Tribunal on 28.03.2019.

FEBRUARY 07, 2019

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**(AVNEESH JHINGAN)
JUDGE**

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

***Whether reportable* Yes/No**