

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

**FAO No. 4230 of 2013 (O&M)
DECIDED ON: FEBRUARY 27, 2019**

KULVINDER @ KULLINDER AND ANOTHER

.....APPELLANTS

VERSUS

UNITED INDIA INSURANCE CO. LTD. AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. K.S. Malik, Advocate
for the appellants.

Mr. Rajesh Kumar Sharma, Advocate
for the respondent No.1-Insurance Company.

AVNEESH JHINGAN J. (ORAL)

The present appeal has been filed by the driver and owner of bus bearing registration No. HR-46-B-8486 (hereinafter referred to as 'the offending vehicle') against the award dated 31.05.2013 passed by the Motor Accident Claims Tribunal, Rohtak (for brevity 'the Tribunal') being aggrieved of the recovery rights granted to the insurance company.

The insurer (i.e. United India Insurance Company Ltd.) of the offending vehicle has been arrayed as respondent no. 1 and claimant has been arrayed as respondent No.2, respectively in the appeal. .

The brief facts necessary for adjudication of the present appeal are

that a motor vehicular accident took place on 09.06.2010. In the said accident Sushil Mittal sustained injuries. FIR No. 434, dated 15.06.2010 was registered at Police Station City Rohtak.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to rash and negligent driving of the offending vehicle. Claimant was held entitled to compensation of ₹1,90,756/- alongwith interest @7.5% per annum. The insurer of the offending vehicle was held liable to pay the compensation. However, right was granted to recover the same from driver and owner. The Tribunal relied on a report obtained by the surveyor under Right to Information Act, 2005 in which it was stated that the driving licence in question i.e. Ex.RW3/B has not been issued by the Licensing Authority, Bhind, (MP).

Learned counsel for the appellants contends that the evidence of the appellants was closed by order before the Tribunal. He relies upon the verification report dated 06.04.2010 issued by the Licensing Authority, District Transport Officer, Bhind (MP) to state that the licence was validly issued.

Learned counsel for the insurer contends that verification report (Annexure A-1) is being produced for the first time in the appeal, the same needs to be verified.

Without expressing any opinion on the merits of the case, the matter with regard to 'liability to pay' only is remitted back to the Tribunal to be decided afresh, after affording opportunities to the driver, owner and the insurer of the offending vehicle to adduce evidence in support of their respective

claims. Annexure A-1 annexed with the appeal to be sent to the Tribunal.

Before parting, it would be pertinent to note that the owner of the offending vehicle is a co-operative Society. The verification report is of 2010 and the award was passed in the year 2013. The said documents were never produced before the Tribunal in spite of the fact that these were in their possession. The remand is subject to payment of costs of ₹20,000/- to be deposited with the Poor Patients Welfare Fund, PGIMER, Chandigarh.

Parties are directed to appear before the Tribunal on 09.04.2019.

In view of the afore-said terms, the present appeal is disposed of.

(AVNEESH JHINGAN)
JUDGE

FEBRUARY 27, 2019
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<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether reportable :</i>	<i>No</i>