IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4298 of 2013 (O&M)

Date of Decision: 21.05.2019

Oriental Insurance Company Limited

.......Appellant

Versus

Reena Devi and others

......Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.C. Gupta, Advocate
for the appellnat.

Mr. Bawa Karanveer, Advocate for
Mr. Vivek Suri, Advocate
for respondents No. 1, 2 and 3.

Mr. Sanjeev Patiyal, Advocate
for respondents No. 6 and 7.

AVNEESH JHINGAN, J.(oral)

Aggrieved of the award dated 14.5.2013 passed by Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal'), the insurer of Heddra Crane bearing registration No. HR-68-A-2015 (for short 'the offending vehicle') is in appeal.

The grievance raised in the appeal is that the driving licence produced by the driver of the offending vehicle was issued from Nagaland and was not genuine.

The factum of accident and quantum of compensation is not in dispute in the present appeal. The issue with regard to quantum of compensation has already been decided by this Court in FAO No. 4495 of 2013 decided on 8.2.2019.

The bare facts necessary for adjudication of the present appeal are that a motor vehicular accident took place on 2.1.2011. The accident proved fatal for Jai Parkash. The accident was result of rash and negligent driving of the offending vehicle. The owner, driver and insurer were held jointly and severally liable to pay compensation.

The Tribunal framed the following issues:

> "1. Whether Jai Parkash died on account of injuries suffered in the accident in question took which place on account of rash and negligent driving of the offending vehicle (heddra crane) bearing registration No.HR-68-A-2015 by respondent No.1, as alleged?OPP
>
> 2. If issue No.1 is proved, whether the claimants are entitled to compensation, if so to what amount and from whom?OPP
>
> 3. Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident, if so to what effect?OPR
>
> 4. Relief. "

In the present appeal, the only dispute raised is with regard to issue No.3. The relevant finding recorded by the Tribunal on issue No.3 is reproduced below:

> "After hearing the learned counsel for the parties it is observed that Ex.RW1/A is the insurance policy vide which the offending vehicle was insured with the respondent No.3, whereas, Ex.R3 is the copy of driving licence of the respondent No.1, which was valid on the date of accident in question. Further, Ex.R2 is the copy of registration certificate of offending vehicle and the same was also valid on the date of accident in question. If the FIR has been placed on record in rebuttal, it does not take away the right of the claimants and the accident is not denied, hence no adverse inference can be taken. Thus, the respondent No.1 being driver, the respondent No.2 being the owner and the respondent No.3 being the insurer of the

> offending vehicle in question, all are held jointly and severally liable to pay the compensation to the claimants. Accordingly, issues No. 2 and 3 stand disposed of."

From the perusal of award, it is evident that the said issue was never seriously pressed by the insurer.

Learned counsel for the insurer candidly submitted that during the pendency of appeal verification of the driving licence Ex.R3 has been done and the licence is genuine. The verification report is taken on record as Mark 'A'.

The licence was valid on the date of accident for driving the offending vehicle, no case is made out for intereference in the impugned order with regard to liability to pay.

The appeal is dismissed.

(AVNEESH JHINGAN)
JUDGE

21.05.2019
reema

Whether speaking/reasoned Yes
Whether Reportable: No