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

**FAO No.3737 of 2014 (O&M)
Date of decision: 09.12.2019**

Rajbir

….Appellant

Versus

TATA AIG General Insurance Company and others

….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rahul Guatam, Advocate,
for the appellant (owner).

Ms. Vandana Malhotra, Advocate,
for respondent No.1-Insurance Company.

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RITU BAHRI J. (Oral)

Rajbir-appellant (owner of offending vehicle) has filed this appeal against the award dated 03.03.2014 passed by Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.9,24,159/- has been awarded in favour of claimant-Laxmi Dutt @ Laxmi Narayan (respondent No.3 herein) on account of injuries received by him in a motor vehicular accident which took place on 06.06.2012, at about 3.00 P.M. in the area of village Narsinghpur on Gurgaon-Jaipur NH-8, Gurgaon.

The appellant is challenging the finding given by the Tribunal, whereby driver and owner i.e. respondent Nos.1 and 2 (in claim petition) have been held liable to make payment of compensation. Learned counsel for the appellant has argued that in the present case, the Insurance Company has been wrongly exonerated by the Tribunal.

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Learned counsel for respondent No.1-Insurance Company states that the route permit dated 19.03.2012 (Annexure A-3) is a valid document. She further contends that the Tribunal has given a specific finding that driving licence Ex.R4 of driver Dharmender was a fake document.

Heard, learned counsel for the parties.

The fact of accident is admitted and proved. It stands established that the claimant has received injuries as a result of the accident. A perusal of the impugned award show that there is a specific report on Form 54 Ex.R-2 of the Licencing Authority, Kanpur that driving licence of Dharmender-respondent No.1 (before the Tribunal) was a fake document. Keeping in view this fact, when notice of motion was issued on 26.05.2014, application for stay was dismissed by this Court. Hence, there was no stay on the payment of compensation amounting to Rs.9,24,159/-. At the most, while passing the award, the Insurance Company could have been given a direction to pay the amount and recover the same from owner keeping in view that the driver of the offending vehicle had a fake driving licence.

In the present case, neither the owner (appellant herein) nor driver of the offending vehicle had put in appearance before the Tribunal as witnesses. In support of his case, the owner could have appeared before the Tribunal and made a statement that at the time of appointing Dharmender (respondent No.2 herein) as driver, he had seen his driving licence. In that backdrop, the Insurance Company could have been held liable to make payment of the compensation. Since, owner-appellant had not led evidence to prove that he had taken abundant caution with regard to the driving licence of driver, liability to make payment of compensation cannot be fixed

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on the Insurance Company. In the absence of any cogent and convincing evidence, the Insurance Company has rightly been exonerated in this case. Accordingly, the argument raised by learned counsel for the appellant is rejected. No ground is made out to interfere in the finding returned by the Tribunal.

Resultantly, finding no merits, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

09.12.2019
ajp

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

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