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

232 FAO No.1324 of 2016(O&M)
Date of Decision: 06.09.2019

NEW INDIA ASSURANCE COMPANY LTD. .....Appellant

Versus

SHANTI & ORS .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vinod Gupta, Advocate for the appellant.
None for respondents No.5 to 7.

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Rekha Mittal, J.(Oral)

Challenge in the present appeal has been directed against award dated 04.11.2015 passed by the Motor Accidents Claims Tribunal, Hisar whereby compensation has been assessed on account of death of Dilbag Singh in a motor vehicular accident that took place on 16.07.2014.

Counsel for the insurance company would inform that appeal has been filed to assail quantum of compensation as well as on the question of driving licence.

Perusal of order of notice of motion would reveal that notice of motion was issued only to respondents No.5 to 7 namely driver and owner/possessor of offending vehicle whereas notice to respondents No.1 to 4 i.e. claimants was dispensed with. As such, no notice was issued to the claimants and insurance company cannot sustain its plea to challenge assessment made by the Tribunal.

With regard to driving licence, the sole submission made by counsel for the appellant is that driving licence produced on record was issued by an authority at Nagaland valid from 23.07.2013 to 22.07.2014. It is argued that since the licence is not in smart card form and a notification was issued by the State of Nagaland that such like licences would be deemed to be cancelled unless obtained in smart card form, it is to be construed that driver of offending vehicle was not duly licensed on the date of occurrence, therefore, the insurance company is entitle to have right of recovery against the insured after payment of compensation to the claimants.

The Tribunal, in para 28 of the award, has noticed that Mehar Singh had driving licence Ex.R2 covering the period of accident that took place on 16.07.2014. The licence was valid from 23.07.2013 to 22.07.2014. The insurance company did not examine any witness from the concerned licensing authority to prove that licence in question was not issued by the said authority. If the driver had not obtained a licence in smart card form and drives a vehicle in the State of Nagaland, he may be challaned for non-possessing of a valid licence in that State but that fact ipso facto does not prove that the driver was not duly licensed for the purpose of Motor Vehicles Act, 1988. In this view of the matter, contention raised by the appellant is not meritorious and accordingly rejected.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed. However, nothing stated hereinbefore shall cause prejudice to the insurance company in case the claimants file an appeal for enhancement of compensation.

06.09.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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