

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

215-2

FAO No.4229 of 2014 (O&M)

Date of decision: 23.07.2019

Rahis Khan

... Appellant

Versus

Reliance General Insurance Co. Ltd. and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sarfraj Hussain, Advocate for the owner.
Mr. Subhash Goyal, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The present appeal has been filed to assail findings of the Tribunal on the question of driving licence, on the basis whereof insurance company has been exonerated of liability to pay compensation.

Counsel for the appellant would argue that the Tribunal by relying upon testimonies of Gham Shyam Dass, Clerk from the office of RTA, Nuh, RW1 and Yashpal Singh, Record Keeper from the office of ARTO, Mathura has arrived at a conclusion that licence No.M/368/MTR/85 issued by Licensing Authority, Mathura was fake, therefore, renewal of such a licence by RTA, Nuh would not cure inherent defect in licence possessed by driver. It is submitted that the appellant has placed on record a photocopy of driving licence Annexure P1 with its translation and perusal thereof would reveal that licence issued by authority at Mathura was issued in the year 1995 but the same has wrongly been read as 85 and for that reason the insurance company called upon the witness from ARTO, Mathura with records pertaining to the year 1985.

Counsel representing the insurance company, on the contrary, would argue that even if there is some confusion with regard to last two

digits namely whether it can be 85 or 95, the matter needs remittance to the Tribunal with opportunity to the insurance company to examine a witness of concerned licensing authority along with relevant records pertaining to the year 1995.

Be that as it may, the whole controversy in the present appeal revolves around the fact, whether licence possessed by the driver was issued by an authority at Mathura in 1995 or 1985. Perusal of photocopy of Annexure P1 gives an inkling that the last two digits with regard to the year may be 95 in place of 85. In order to seek necessary clarification, the matter needs remittance to the Tribunal for deciding issue No.3 afresh on the basis of materials already on record and additional evidence to be adduced by the insurance company and rebuttal evidence, if any, by the appellant/registered owner of the vehicle. Accordingly, findings of the Tribunal on issue No.3 are set aside.

In view of what has been discussed hereinbefore, the appeal is partly allowed. Findings of the Tribunal on issue No.3 are set aside and the matter is remitted to the Tribunal for deciding the said issue on the basis of materials already on record and additional evidence to be adduced by the insurance company and rebuttal evidence, if any, to be led by the owner of the vehicle. Parties through their counsel are directed to appear before the Tribunal on 16.08.2019. The Tribunal shall finalise the matter within three months of the parties putting in appearance.

23.07.2019

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(REKHA MITTAL)**JUDGE**

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No