IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.3540 of 2015 (O&M)
Date of decision: 04.04.2019

Sharad Bali ... Appellant

Versus

New India Assurance Co. Ltd. and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Neeraj Khanna, Advocate for the appellant.
Mr. DK Prajapati, Advocate for respondent No.1.
Ms. Monika Jangra, Advocate for respondent No.5.
Mr. Munish Gupta, Advocate for respondent No.6.
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REKHA MITTAL, J. (Oral)

The present appeal has been filed by registered owner of offending vehicle No.CH-03S-0280 to assail findings of the Tribunal on issue No.3 with regard to driving licence.

Counsel for the appellant would argue that findings of the Tribunal on the question of driving licence are the result of its failure to take into consideration the documents Ex.A-109 and A-111 produced by a representative of the insurance company, sufficient to establish that Paritosh Prashar had a driving licence Ex.A109 valid on the date of accident i.e. 21.06.2010. It is further argued that as per verification of the said driving licence made by the insurance company, may be for the purpose of granting compensation qua own damage to the aforesaid vehicle, it was found that the licence was issued by the authority at Ghaziabad and it was valid on 21.06.2010. It is vehemently argued that in view of documentary evidence made available on record by the insurance company, findings of the Tribunal on issue No.3 are liable to be set aside.

Counsel representing the insurance company (New India

Assurance Co. Ltd.) is not in a position to refute contention of the appellant in respect of the documents Ex.A-109 and A-111. He has also not disputed that the insurance company has already allowed compensation in respect of damage to the car in question.

In view of the above, I find merit in contention of the appellant that findings of the Tribunal on issue No.3 are the result of complete non-application of mind and failure to take into consideration the aforesaid documents which prima facie negate plea of the insurance company that driver of offending vehicle was not holding a valid licence on the date of occurrence. Accordingly, findings of the Tribunal on issue No.3 are set aside. As a consequence, right of recovery given to the insurance company is set aside.

In view of what has been discussed hereinbefore, the appeal is partly allowed. The insurance company shall be jointly and severally liable to pay compensation to the claimant(s) without any right of recovery.

04.04.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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