

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 5232 of 2014 (O&M)
Date of decision : September 12, 2019

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The Singh Cooperative Transport Society and another
.....Petitioner

Versus

United India Insurance Company Ltd. and others
.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Raj Kaushik, Advocate for the appellant.

Mr. Rahul Pathania, Advocate for
Mr. R.C Kapoor, Advocate for respondent no.1.

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RITU BAHRI, J.

CM No. 14795-CII of 2014

Prayer made in the application is for condonation of delay of
78 days in filing the present appeal.

For the reasons stated in the application, delay of 78 days in
filing the present appeal is condoned. CM is allowed.

CM No. 5602-CII of 2015

CM is allowed as prayed for.

Annexure A-3 is taken on record.

FAO No. 5232 of 2014

The appellant-The Singh Co-Operative Transport Society through its president has come up in the present appeal against the award of the Tribunal dated 23/10/2013, whereby a compensation of Rs. 10,12,000 has been awarded to the claimants and recovery rights had been given to the insurance company as the appellant-respondent No. 2 (in the claim petition) could not produce the valid and effective route permit of the offending vehicle bearing registration No. HR-37C-9033 before the Tribunal.

Briefly stated, the facts of the case are that on 18/11/2012, Surinder Pal Singh was going from Royal Palace, Ambala City towards his Village Baroula on Ambala Hissar road after attending a marriage ceremony on his motorcycle bearing registration No. HR-01 N-9688. When he reached near Manav Chowk Ambala city bus bearing registration No. HR-37C-9033 coming from the wrong side and being driven rashly and negligently in a zigzag manner by respondent No. 1 (in the claim petition) came from opposite direction and hit against the motorcycle of deceased. The right side wheel of the bus passed over the head and neck of Surinder pal Singh. He died on the spot. Jorawar Singh, respondent No. 1 fled away from the spot along with his bus after causing the accident. In the background of the accident, FIR No. 598 of 2012 under Sections 279 and 304-A of the Indian Penal Code, 1860 was registered at Police station Ambala City against respondent No. 1.

The claimants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation on account of death of Surinder Pal Singh due to injuries suffered by him in the accident which took place on 18/11/2012.

Notice of the claim petition was issued to the respondents. In the joint written statement, respondent No. 1 and 2 took a stand that no accident took place with the bus in question and the claimants in connivance with the police got registered a false case. In a separate written statement filed by the United India Insurance Company Limited-respondent No. 3, the stand was taken that Jorawar Singh-respondent No. 1 was not having valid and effective driving license and the vehicle in question was being driven in violation of the terms and conditions of the insurance policy.

On the basis of the pleadings of the parties, following issues were framed by the tribunal:

- 1. Whether Surinder pal Singh died due to injuries in the accident caused on 18/11/2012 by rash and negligent driving of bus bearing registration No. HR-37C-9033 by the respondent No. 1 Jorawar Singh, as alleged? OPP.*
- 2. Whether the claimants are entitled to compensation, if so, how much and from whom? OPP.*
- 3. Whether the respondent No. 1 did not have valid and effective driving license at the time of the accident. If so to what effect? OPR 3.*
- 4. Whether respondent No. 2 has violated the terms and conditions of the insurance policy, if so to what effect? OPR 3.*

After hearing counsel for the parties and after going through the records of the case, the Tribunal gave findings on issues No. 1 and 2 in favour of the claimants and against the respondents. It was held by the Tribunal that the accident in question was, caused due to rash and negligent

driving of bus bearing registration No. HR-37C-9033 by Jorawar Singh-respondent No. 1.

Finding on issue No. 1 and 2 have not been disputed by the appellant. This finding has rightly been given in favour of the claimants, keeping in view that immediately after the accident, FIR Ex. P-11 was registered against the driver of the bus and report under Section 173 of the Code of Criminal Procedure, 1973 was presented against him. Thereafter, on issue No. 3 and 4 compensation was assessed. The main ground of appeal in the present case is with respect to finding on issue No. 3 and 4. Respondents No. 1 and 2(i.e the driver and owner of the offending vehicle) examined Trilok Singh to establish that the bus in question was having valid and effective route permit on the date of the accident. RW 1 Trilok Singh produced receipts Ex. RW 1/B to Ex. RW 1/D, letter dated 25/06/2012, Ex. RW 1/E; receipt of Rs. 850 Ex. RW 1/F and Ex. RW 1/G. The tribunal held that all these documents were much after the date of the accident that is 18.11.2012 thus there was no evidence on record to show that either a permit was issued or even the tax was paid qua the offending vehicle bearing registration No. HR-37C-9033. The appellant by way of application under Order XLI Rule 27 read with Section 151 CPC prayed for allowing the additional evidence by way of tendering copy of Stage Carriage Permit as Annexure A-3. As per this stage carriage permit it was valid from 14/03/2002 to 13/03/2007. The permit shows that it was renewed up to 13/03/2017 hence on the date of the accident i.e 18/11/2012 it had the due validity. This application had been filed on 28/04/2015 and only objection taken was that the appellant was in possession of the Stage Carriage Permit (Annexure A-3) during the pendency of the claim petition

yet failed to produce the same before the Tribunal. As per the reply the validity of this permit has not been disputed thus finding on issues No. 3 and 4 that the appellant did not had a valid route permit on the date of the accident is hereby reversed and the award is modified to the extent that the liability to make payment of the compensation is joint and several by all the respondents. The Insurance Company will have no recovery rights against the driver and owner of the offending vehicle.

The appeal is disposed of in the above terms.

September 12, 2019
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No