

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

FAO No.749 of 2013 (O&M)

Date of decision: 27.08.2019

Lal Singh Yadav

....Appellant

Versus

Pawan Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Manoj Kumar Palwal, Advocate,
for the appellant.

None for the respondents.

RITU BAHRI J. (Oral)

CM No.4856-CII of 2013

The present application under Order 41 Rule 27 CPC is for placing on record fitness certificate (Annexure A-1) of the offending vehicle.

Upon notice, no reply has been filed on behalf of the Insurance Company.

In view of the averments mentioned in the application, same is allowed and fitness certificate (Annexure A-1) is taken on record.

FAO-749-2013

Lal Singh Yadav-appellant (owner of offending vehicle) has come up in appeal against the award dated 16.10.2012 passed by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.3,00,000/- has been awarded in

favour of the claimant-respondent No.1 on account of injuries suffered by him in a motor vehicular accident which took place on 15.04.2011.

The appellant is not challenging the finding given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver-Hans Raj (respondent No.1 in claim petition), as FIR Ex.PW2/A was registered against him. The challenge is to the finding given on issue Nos.4 & 5, where the insurance company-respondent No.1 has been absolved of its liability to make payment of compensation.

I have heard learned counsel for the appellant and perused the case file.

The appellant was the owner of offending vehicle, which was insured with respondent No.3-Insurance Company vide insurance policy Ex.R3. Ex.R1 is the copy of driving licence of the driver. Since, no verification with regard to aforesaid licence was done by the insurance company, the same was held to be valid at the time of accident. Further, since owner (present appellant) did not show the fitness certificate of offending vehicle, the insurance company was absolved of its liability to make payment of compensation.

A perusal of the fitness certificate (Annexure A-1) shows that the offending vehicle bearing registration No.HR-55-H-1953, which was registered in the name of Lal Singh (appellant), was valid w.e.f. 12.05.2010 to 11.05.2011. Accident, in the present case, took place on 15.04.2011. Hence, on the date of accident, the offending vehicle was carrying the fitness certificate (Annexure A-1).

Keeping in view the aforesaid fitness certificate (Annexure A-

1), it is held that on the date of accident, the owner of the offending vehicle was having a valid and effective fitness certificate in respect of the said vehicle. Therefore, the finding given by the Tribunal on issue Nos.3 & 4 are reversed/set aside and all the respondents i.e. owner, driver and insurance company are jointly and severally held liable to pay compensation to the claimant. Since the vehicle was insured on the date of accident, respondent No.3-insurance company will indemnify the ward.

Resultantly, the impugned award is modified to the extent that the amount of compensation shall be paid by the Insurance Company-respondent No.3 only and it shall not recover the same from the owner (appellant) of the offending vehicle. Statutory amount of Rs.25,000/-, deposited by the appellant at the time of filing of this appeal, shall be returned back by the Registry of this Court as per rules.

Allowed in the aforesaid terms.

(RITU BAHRI)
JUDGE

27.08.2019
ajp

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