

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

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FAO No.3524 of 2016 (O&M)

Date of decision: 11.01.2019

AMRIK SINGH

... Appellant

Versus

NATIONAL INSURANCE COMPANY LTD AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. G.S. Sandhu, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 28.09.2012 passed by the Motor Accidents Claims Tribunal, Jalandhar whereby compensation has been assessed on account of injuries sustained by Vijay Kumar in a motor vehicular accident that took place on 09.06.2007, on account of rash and negligent driving of truck No.PB-10-L-9655 driven by Santokh Singh respondent No.2 at the relevant time.

Counsel for the appellant (registered owner of the offending vehicle) would inform that the appeal has been preferred to assail findings of the Tribunal on issue No.3 on the basis whereof the insurance company has been given right of recovery against respondents No.1 and 2 before the Tribunal. It is argued that as the appellant was not aware that licence possessed by the driver is not valid and he is not obligated in law to seek verification from concerned licensing authority, the Tribunal has committed a grave error by giving right of recovery in favour of the insurer after payment of compensation to the claimant.

Apart from the fact that the appeal has been filed after a huge delay of 1170 days, contention raised by counsel for the appellant is devoid of merit and the appeal deserves to be dismissed.

The Tribunal framed issue No.3, reads thus:-

Whether the driver of the offending truck was not having valid and effective driving licence at the time of alleged accident, if so, its effect? OPR.

The insurance company examined Gulshan Kumar, Senior Clerk from the office of Regional Transport Authority/Licensing Authority, Agra (UP). The Tribunal has noticed in para 31 of the award that it has been clearly proved on record that driving licence, copy of which is produced on record as Ex.LCW1/A is a fake licence having not been issued by the RTO/Licensing Authority, Agra, thus, driver of offending truck was not having valid and effective licence at the time of accident. By relying upon judgment of Hon'ble the Supreme Court **National Insurance Co. Ltd. Vs. Swaran Singh, 2004 ACJ 1**, the insurance company was held liable to pay compensation to the claimant but given right of recovery against owner and driver of offending vehicle.

Counsel for the appellant is not in a position to assail factual findings recorded by the Tribunal that licence possessed by driver of the offending vehicle namely Santokh Singh was found to be fake as the same was not issued by the Licensing Authority, Agra. Amrik Singh appellant did not appear in the witness box in order to say something on oath that he had taken due precautions to know about licence possessed by the driver when he was engaged as such to drive the offending truck. That being so, the appellant cannot be heard to say that there was no intentional or wilful breach of policy conditions, on his part. In this view of the matter, I do not find an error much less illegality in findings of the Tribunal on issue No.3.

In view of what has been discussed hereinabove, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

(REKHA MITTAL)
JUDGE

11.01.2019
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Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No