

In the High Court of Punjab and Haryana at Chandigarh

FAO- 3981 of 2016(O&M)

Date of Decision: 1.7.2019

United India Insurance Company Limited

---Appellant

versus

Pritpal Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Lalit Garg, Advocate
for the appellant

Mr. Nipun Gupta, Advocate
for Mr. Deepak Aggarwal, Advocate
for respondents No. 4 and 5

Rekha Mittal, J.

Challenge in the present appeal has been directed against award dated 5.4.2016 passed by the Motor Accidents Claims Tribunal, Bathinda (in short “the Tribunal”) whereby compensation has been assessed on account of death of Ravinder Singh in a motor vehicular accident that took place on 29.9.2013.

Counsel for the appellant-insurance company would inform that appeal has been preferred primarily to assail findings of the Tribunal on issue No. 6 pertaining to driving licence of Avtar Singh-respondent No. 4.

Counsel would argue that a specific plea was raised by the insurance company that driver of offending vehicle was not holding a valid and effective driving licence on the date of occurrence and in the light

thereof, the Tribunal framed issue No. 6. It is further submitted that while taking up issues No. 4 to 7 jointly, the Tribunal has only dealt with issue No. 4 with regard to maintainability of the claim application but did not advert to the question of driving licence, therefore, the Tribunal has committed a gross error while holding that issues No. 4 to 7 are decided against the respondents and in favour of the claimants. It is further argued that the insurance company adduced evidence to prove that driver of offending vehicle did not possess licence on the day of occurrence.

Counsel representing respondents No. 4 and 5 is not in a position to counter the submissions made by counsel for the insurance company in view of findings recorded in para 15 of the award.

Be that as it may, it is undisputed position of the case that the Tribunal framed issue No. 6 , reads thus:-

“Whether the driving license of respondent No. 1 was not valid and effective?OPR”

The Tribunal took up issues No. 4 to 7 jointly and answered the same against the respondents by adverting only to the question of maintainability or otherwise of the claim application. A relevant extract from para 15 of the award, reads as follows:-

“Onus to prove these issues was upon the respondents that the present claim petition is not maintainable. But the respondent have failed to lead any evidence to show that the instant petition was not maintainable in the present form. The accident in question took place within revenue limits of District Bathinda, the claimants are also resident of District Bathinda. As such, cause of action arose in favour of claimants to file this

claim petition before this Tribunal, which is very much maintainable and the claimants have also locus standi to file this petition. As such issue no. 4 to 7 are decided against the respondents and in favour of the claimants.”

It is surprising rather mystifying that the Tribunal for the reasons best known did not advert to the question of driving licence but still proceeded to answer that issue against the insurance company. The Presiding officer concerned is directed to submit his explanation within one month of receipt of copy of the order as to how he decided issue No. 6 against the insurance company even without adverting to the question of driving licence.

As the Tribunal did not decide issue No. 6, findings of the Tribunal on issue No. 6 cannot be allowed to sustain. As a consequence, the appeal is partly allowed. The matter is remitted to the Tribunal for decision of issue No. 6 afresh, in accordance with law. The parties through their counsel are directed to appear before the Tribunal on 23.7.2019. The Tribunal may issue notice to Zaildar Singh, registered owner of the vehicle for deciding the question of driving licence and shall dispose of the matter within a period of four months of the parties putting in appearance.

Disposed of accordingly.

(Rekha Mittal)
Judge

1.7.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No