

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-703-2014 (O&M)

Date of decision: 26.11.2019

Ramesh Chand

..... Appellant

Versus

Kamla Kumari and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Animesh Sharma, Advocate for the appellant.

Ms. Bimmy Joshi, Advocate for
Ms. Ekta Thakur, Advocate for respondents No.1 to 5.

Mr. Ravinder Arora, Advocate
for respondent No. 6-Insurance Company.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, driver-cum-owner of offending truck bearing registration No. PB-10-R-9339, has laid challenge to the Award dated 12.11.2013 of the Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal'), giving recovery rights to respondent No. 6-Insurance Company, against him on the ground that on the date of accident i.e. 15.07.2011, his offending truck plied by him was without valid permit.

Heard.

Learned counsel for the appellant *inter alia* contends that appellant initially, was having route permit valid from 30.05.2006 to 29.05.2011 i.e. for 5 years. After its expiry, appellant applied for its renewal on 07.06.2011, within the statutory period of a month, as per

provisions of Section 81(5) of the Motor Vehicles Act, 1988 (for short-'the Act') and was renewed on 19.07.2011.

Sub-clause (5) of Section 81 of the Act envisages that where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of the fact as to whether or not a temporary permit has been granted under clause (d) of section 87, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.

Dealing with similar issue, a co-ordinate Bench of this Court in FAO-4486-2014, 'Oriental Insurance Company Ltd. Vs. Kalu Ram and others', decided on 09.07.2014, has held that once a permit is renewed after expiry of the period, the same would be valid with retrospective effect.

Learned counsel for respondent No. 6-Insurance Company has not been able to cite some counter law.

In view of the above factual position, finding of learned Tribunal in the impugned Award, giving recovery rights to respondent No. 6-Insurance Company against the appellant is set aside. Consequently, respondent No. 6-Insurance Company is held liable to make payment of compensation.

The instant appeal stands disposed of, accordingly.

November 26, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No