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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-8915-CII-2019 in/and
FAO-4643-2016
Date of Decision: November 20, 2019

Reliance General Insurance Co.Ltd.

.....Appellant

Versus

Simarjit Kaur and others

......Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Sanjeev Kodan, Advocate
for the appellant-Insurance Company.

Mr.Arnav Sood, Advocate
for respondent Nos.1 to 5.

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NIRMALJIT KAUR, J. (ORAL)

The matter has come up for hearing in pursuance to the application filed by claimant-respondent Nos.1 to 5 for vacation of the stay granted by this Court vide order dated 29.08.2016.

After hearing the application at length, it has emerged that the only issue in the appeal is with respect to the alleged fake licence. It being the only issue, this Court deems it proper to dispose of the main appeal itself. Appeal is taken up on Board today itself. Registry to list the main case.

While praying for dismissal of the application for vacation of stay and, therefore, allowing the appeal filed by the Reliance General Insurance Company Limited, learned counsel for the appellant-Insurance Company submitted that the specific issue was framed with regard to the validity of the driving licence of Karnail Singh, who had unfortunately died in the accident and the said issue, i.e. Issue No.2, with respect to the driving licence being a fake one was decided against the owner. It was therefore, contended that in these circumstances, the Insurance Company cannot be held liable for the amount so awarded, especially when there is a clear breach of Insurance policy and hence the liability, if at all, is of the owner of the vehicle.

Learned counsel for the parties accordingly referred to the concerned finding in Issue No.2. Finding with respect to Issue No.2 is reproduced below for proper adjudication of the case:

> "Issue No.2: The onus to prove this issue was on respondent no.2 insurance company. The respondent insurance company examined RW-2 Bal Krishan Thakur, Senior Assistant, Licencing Authority, Solan who stated that the driving licence no.12949/87-88 has not issued by their office in the year 1987-88 and proved the report to this effect as Ex.RX, but in cross examination he stated that in his office there are two types of register for issuance of driving licences one for new licences and another for renewal licences, but he stated that he has brought only one register and he has made statement on the basis of said statement, but he has further stated that he has no knowledge regarding the second register. The insurance company further examined RW-3 Tarlok Singh, Junior Assistant, Office of DTO, Hoshiarpur, who stated that the licence of Karnail Singh S/o Sohan Singh, resident of village Jalalpur has been renewed by their office and for the first time it was renewed in the year 1995-96 vide No.817/R. He has further stated that before renewing the driving licence for the first time they gave notice to the Licencing Authority, Solan under the Act and after completing the formalities they

renewed the driving licence. He has further stated that the copy of the notice is not available in their office being old one. He has further stated that no official of their office went to DTO, Solan to personally verifying the D/L No.12949/87-88. He also proved the verification report of D/L as Ex.RM issued by their office. In cross examination this witness admitted that the licence has been renewed by their office six times and every time of renewal the proper formalities were taken. He further stated that D/L No.1504 was valid from 02.05.2011 to 01.05.2014 and was issued by their office and not by Licencing Authority, Solan. Hence from the evidence led by the insurance Company it has been proved that the old number of the driving licence of Karnail Singh on the basis of which the licence of Karnail Singh has been renewal by DTO, Hoshiarpur is fake. Hence this issue is decided in favour of respondent No.2 and against respondent no.1."

A perusal of the above finding, no doubt, shows that the licence issued by the Licensing Authority, Solan, was fake, whereas, it is also proved on record, beyond doubt, that one driving licence No.1504 was issued by the Licensing Authority, Hoshiarpur and the said driving licence was renewed six times by the Licensing Authority, Hoshiarpur and that too is stated to have been renewed after following proper procedure. In fact, the said facts were verified by RW3 Tarlok Singh, Junior Assistant of the Office of DTO, Hoshiarpur, who was examined by none else than the Insurance Company.

In these circumstances, no fault can be found with the Award. The employer cannot be blamed for employing the driver. He employed the driver on the basis of renewed driving licence by an Appropriate Authority and the said driving licence, duly renewed, by the Appropriate Authority was valid from 02.05.2011 to 01.05.2014 whereas, the accident occurred on 25.02.2014, on which date he had a driving licence, duly renewed, after following due process of law. No person will have the expertise to know as to whether the driving licence is fake or not. Even a person with reasonable knowledge and education will not be able to find out the difference between the fake and a genuine driving licence. Even though, he was not expected to get the same verified from the Licensing Authority, still, in the present case, he got the licence verified and after verification it was found that the same was duly issued by the DTO Hoshiarpur. The judgment rendered by the Apex Court in the case of **Pepsu Road Transport Corporation vs National Insurance Company,** 2013 (4) RCR (Civil) 273 is a complete answer to the issue in hand. In fact, the issue is no more *res integra* in view of the above judgment, wherein it was held as under:-

> "9. On facts, in the instant case, the appellant employer had employed the third respondent Nirmal Singh as driver in 1994. In the process of employment, he had been put to a driving test and he had been imparted training also. The accident took place only after six years of his service in PRTC as driver. In such circumstances, it cannot be said that the insured is at fault in having employed a person whose licence has been proved to be fake by the insurance company before the Tribunal. As we have already noted above, on scanning the evidence of the licensing authority before the Tribunal, it cannot also be absolutely held that the licence to the driver had not been issued by the said authority and that the licence was fake. Though the appellant had also taken a contention that the compensation is on the higher side, no serious attempt has been made and according to us justifiably, to canvas that position."

Hence, the appeal is dismissed being devoid of merit. The application for vacation of stay is rendered infructuous.

It is stated that the amount has already been deposited by the appellant-Insurance Company. If it is so, the same be disbursed to the claimant-respondents forthwith.

November 20, 2019 **(NIRMALJIT KAUR)**
meenuss **JUDGE**

1. Whether speaking/reasoned ? Yes/No
2. Whether reportable ? Yes/No