

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

Date of Decision: 20.02.2019

1. FAO No.1103 of 2017(O&M)

Madan Enterprises CTC Rajesh GroverAppellant

Versus

Sandeep Kumar and othersRespondents

2. FAO No.1104 of 2017(O&M)

Madan Enterprises CTC Rajesh GroverAppellant

Versus

Sandeep Kumar and othersRespondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Ashish Gupta, Advocate
for the appellant.

Mr. Pradeep Kumar, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, FAO No.1103 of 2017 titled
Madan Enterprises CTC Rajesh Grover Vs. Sandeep Kumar

and others and FAO No.1104 of 2017 titled Madan Enterprises CTC Rajesh Grover Vs. Sandeep Kumar and others are being disposed of.

[2]. Motor Accident Claims Tribunal, Ambala vide award dated 02.01.2016 decided two claim petitions i.e. MACT case No.15(0308) of 2014 titled Smt. Kanta Vs. Sandeep Kumar etc. and MACT case No.16(0309) of 2014 titled Raj Kumar Vs. Sandeep Kumar etc. The Tribunal partly allowed both the claim petitions with costs in favour of the claimants. Insurance Company was directed to deposit the amount at the first instance directly in the names of the claimants with a recovery right against the appellant who is registered owner of the offending vehicle.

[3]. These appeals have been preferred to the extent of awarding recovery rights against the appellant on the ground that the driver was possessing the valid driving licence and the findings to the contrary recorded by the Tribunal are *per se* illegal.

[4]. At the time of issuance of notice of motion on 27.02.2018, following order was passed:-

“Learned counsel for appellant submits that driver of the offending vehicle, respondent no. 1-Sandeep Kumar was holding a valid driving licence at the time of accident but the same could not be produced before the Tribunal.

Earlier driver was holding a valid driving licence, which as per notification of Nagaland Government was held to be not valid till a smart card is issued. He approached the Nagaland Authorities and got the smart card (Annexure A-1) issued, which shows that his driving licence was valid on the date of accident.

Notice of motion to respondent no. 2-Insurance Company only, at this stage, for 17.04.2018.

Notice re: condonation of delay as well.

Dasti as well.

Copy of this order be placed on the file of other connected matter.”

February 27, 2018

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***(SURINDER GUPTA)
JUDGE”***

[5]. Today, learned counsel appearing on behalf of respondent No.2 stated that on verification of driving licence, the same is found to be genuine.

[6]. In view of statement made by Mr. Pradeep Kumar, Advocate for respondent No.2, the award to the extent of giving recovery rights to the insurance company is modified thereby fastening the liability in toto upon the insurance company. Application under Order 41 Rule 27 CPC is also allowed. Since the insurance company has already answered the claim by way of depositing the amount in the Tribunal as per award, therefore, if the claim is satisfied, the consequential proceedings for recovery of the said amount against the appellant(s) is directed to be dropped.

[7]. With the aforesaid modification, these appeals are disposed of.

20.02.2019

(RAJ MOHAN SINGH)
JUDGE

Prince

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