

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

205

FAO-1439-2017 (O&M)

Date of decision: 20.12.2019

RAM PAL

.. Appellant

Versus

RELIANCE GENERAL INSURANCE CORPORATION LTD. AND ORS.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Gurinderjit Kaur, Advocate for
Ms. Monisha Lamba, Advocate for the appellant.
Mr. Ashwani Talwar, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The present appeal has been filed by insured/owner of offending vehicle to assail findings of the Tribunal on the question of driving licence on the basis whereof the insurance company has been given right of recovery against driver and owner of offending vehicle.

A relevant extract from order dated 13.03.2019, reads as follows:-

Counsel for the appellant (registered owner of offending vehicle) has assailed findings of the Tribunal in respect of driving licence, recorded in para 19 of the award, on the premises that the Tribunal has taken into consideration verification report Ex.R5 in respect of driving licence No.55466PK/PROOF/10 but licence possessed by the driver bears No.55466/PK/Prof authorizing him to drive MV, LMV, MMV valid from 22.11.2014 to 21.11.2017.

Perusal of findings of the Tribunal, recorded in para 19 of the award, makes it evident that Tribunal has taken into consideration verification report of DL No.55466PK/Proof/10 Ex.R5 but licence possessed by Monu Jadom son of Arvind bears No.55466/PK/Prof. The appellant has placed on record document Annexure A1, no objection certificate purported to be issued by District Transport Officer, Phek, Nagaland. Counsel for the insurance company is not in a position to explain this discrepancy or assert that report relied upon by the Tribunal can validly

form the basis to record a finding that driver was not possessing a valid licence. In the given circumstances, there is no alternative except to set aside findings of the Tribunal recorded in para 19 of the award and right of recovery given in favour of the insurance company. I would hasten to add that the Tribunal also needs to examine whether this report can be taken into consideration without examining a witness or whether right of recovery can be given against the driver even if licence is found to be invalid.

In view of what has been discussed hereinbefore, the appeal stands disposed of. Findings of the Tribunal on the question of driving licence are set aside and matter is remitted to the Tribunal for deciding the said issue afresh on the basis of materials already on record and additional evidence, if any, to be adduced by the insurance company and rebuttal evidence by the appellant-registered owner of the vehicle. For deciding the aforesaid question, the Tribunal would not seek presence of the claimants or driver of offending vehicle as issue of driving licence is inter se the insured and insurance company. Parties through their counsel are directed to appear before the Tribunal on 17.01.2020. The Tribunal shall decide the aforesaid issue(s) within three months of parties putting in appearance. As the appeal has been disposed of, application for condonation of delay is of academic relevance.

20.12.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No