201(6 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **FAO-7812-2016 (O&M)**
Date of Decision: September 16, 2019

Bajaj Allianz GIC Ltd.

.....Appellant

Versus

Santosh Thapa and others

.....Respondents

2. FAO-7813-2016(O&M)

Bajaj Allianz GIC Ltd.

.....Appellant

Versus

Santosh Thapa and others

.....Respondents

3. FAO-7823-2016(O&M)

Bajaj Allianz GIC Ltd.

.....Appellant

Versus

Santosh Thapa and others

.....Respondents

4. FAO-7824-2016(O&M)

Bajaj Allianz GIC Ltd.

.....Appellant

Versus

Santosh Thapa and others

.....Respondents

5. FAO-7825-2016(O&M)

Bajaj Allianz GIC Ltd.

.....Appellant

Versus

Santosh Thapa and others

.....Respondents

and

6. FAO-7826-2016 (O&M)

Bajaj Allianz GIC Ltd.

.....Appellant

Versus

Santosh Thapa and others

.....Respondents

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CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Sachin Ohri, Advocate
for the appellant-Insurance Company.

Mr.N.K.Malhotra, Advocate
for the claimants in FAO Nos.7813 and 7825 of 2016

.....

NIRMALJIT KAUR, J. (ORAL)

All the appeals shall stand decided by this common order as all have arisen out of a common judgment.

In all the above six appeals, the Insurance Company is aggrieved by the liability having been fastened upon it on account of the injuries and the death in pursuance to the accident, which took place on 28.06.2014.

While praying for setting aside the said Award, learned counsel for the Insurance Company submitted that the driver of the offending vehicle was not having a valid and effective driving licence; the driver was a resident of Delhi but the driving licence was issued from Nagaland. The said licence was not issued as per the provisions of the Motor Vehicle Act. Further, the said driving licence had been cancelled and the driver did not lead any evidence to show otherwise.

A perusal of the driving licence, Annexure R-1, was issued to the driver by the name of Santosh Thapa, who is respondent No.1 in all the above mentioned appeals. It was issued on 09.07.2010 and valid upto 08.12.2016. As per the report, which is also taken into consideration by the Tribunal, the said driving licence was issued by the D.T.O.,Tuensang (Nagaland) but, the same was held to be cancelled being not in a Smart Card Format. Admittedly, no evidence was led by the appellant-Insurance

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Company with respect to any such notification. However, this Court is not inclined to agree that the appellant-Insurance Company is not liable in the present facts and circumstances, even if such a notification exists. Even the driving licence, so issued, it cannot be said that the same was not genuine when the same is said to have been cancelled only because it was not a Smart Card. The Insurance Company cannot wriggle out of this liability on the said ground. There is also nothing on record to show that the driving licence was not found valid either on the ground that the driver did not know the driving or that it was actually cancelled on account of some fault of the driver. The fact that it was not converted into a Smart Card, will alone not absolve the Insurance Company of its liability.

In view of the above, all the appeals are dismissed.

September 16, 2019 **(NIRMALJIT KAUR)**
meenuss **JUDGE**

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

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