

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

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FAO-328-2017(O&M)

Date of Decision : July 25, 2019

THE ORIENTAL INSURANCE COMPANY LTD

.....Appellant

VERSUS

URMILA DEVI AND ORS

.....Respondents

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FAO-329-2017(O&M)

THE ORIENTAL INSURANCE COMPANY LTD

.....Appellant

VERSUS

URMILA DEVI AND ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Vinod Chaudhri, Advocate
for the appellant(s).

Mr. Gaurav Gaur, Advocate
for respondent No.3 in FAO-328-2017 and
for respondent No.4 in FAO-329-2017.

NIRMALJIT KAUR, J. (Oral)

CM-1222-CII-2012017 IN
FAO-328-2017

For the reasons mentioned in the application, the application
is allowed and the delay of 149 days in filing of the appeal is condoned.

CM-1224-CII-2017 IN
FAO-329-2017

For the reasons mentioned in the application, the application
is allowed and the delay of 149 days in filing of the appeal is condoned.

Main cases

Both the above mentioned appeals shall stand decided by this

common order.

The appeals have been filed only on two grounds i.e. one, the driver did not have a valid driving licence as he was required to have a smart card in view of the letter No.TC-23-MV/2007 dated 1.8.2014 of the Transport Commissioner, Kohima and secondly, the quantum is on the higher side.

After arguing, learned counsel for the appellant does not press the second argument qua the quantum and has pressed the first argument. The first argument too has no merit as it is evident from the perusal of the award dated 26.4.2016 that the said objection was raised for the first time during arguments. The onus to prove that it was not a valid and effective licence was upon the appellant/Insurance Company for which they led no evidence. Even otherwise it cannot be said that the driving licence so issued was not genuine. The Insurance Company cannot wriggle out of its liability on the ground that the driver did not get a smart card issued which he should have. There is nothing on record to show that his driving licence was found invalid either on the ground that he did not know driving or that it was actually cancelled on account of some fault of the driver.

The appeals are, accordingly, dismissed being devoid of any merit.

(NIRMALJIT KAUR)
JUDGE

July 25, 2019
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No