

FAO- 402 of 2017 (O&M)
Date of Decision: 22.11.2019

Omkar Bus Service (Regd.) and another

---Appellants

versus

New India Assurance Company Limited and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Ramneek Vasudev, Advocate
for the appellants**

Rekha Mittal, J.

Mr. R.C.Gupta, Advocate, has caused appearance on behalf of the insurance company.

Challenge in the present appeal has been directed against award dated 26.9.2016 passed by the Motor Accidents Claims Tribunal, Sangrur (in short “the Tribunal”) to the limited extent that insurance company has been given right of recovery against the owner and driver of offending vehicle, in view of findings on the question of driving licence while deciding issues No. 4 and 5 jointly.

Counsel for the appellants would state that an application has been filed by invoking Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure for placing on record verification report dated 14.10.2016 issued by the office of District Transport Officer, Patiala (Annexure A-2) in respect of driving licence marked as Ex. R2 before the Tribunal.

Counsel for the parties are *ad idem* that findings of the Tribunal on the issue of driving licence (issue No. 5) may be set aside and the matter be remitted to the Tribunal for deciding the said issue afresh on the basis of evidence to be adduced by the appellant in respect of competence of driver of offending vehicle to drive the bus on the basis of licence possessed by him.

In view of the above, the appeal is partly allowed. Findings of the Tribunal on issue No. 5 are set aside and as a consequence, right of recovery given to the insurance company is also set aside. The matter is remitted to the Tribunal for deciding issue No. 5 afresh on the basis of evidence already on record and additional evidence to be adduced by the appellants and evidence, if any, to be led by the insurance company. Parties through their counsel are directed to appear before the Tribunal on 18.12.2019. The Tribunal shall adjudicate issue No. 5 afresh within four months of the parties putting in appearance.

(Rekha Mittal)
Judge

22.11.2019

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No