

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

253

FAO No.2771 of 2018

Date of Decision:25.9.2019

M/S DURGA INDUSTRIES

.....Appellant

Versus

BALDEV RAJ AND OTHERS

.....Respondents

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

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

Mr.Puneet Jain, Advocate for
Mr.M.B.Jain, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J.(Oral)

Appellant M/s Durga Industries i.e. owner of truck No.PB-04J-9703 has preferred this appeal feeling aggrieved against the recovery rights given to the Insurance Company.

Learned counsel for the appellant contended that the alleged violation of route permit was not covered under the defences under Section 149 of the Motor Vehicles Act in favour of Insurance company. Even otherwise, the appellant was having a valid route permit and the same could not be brought on record despite due diligence. An application under Order 41 Rule 27 CPC has also been filed along with an appeal.

In pursuance to the notice issued to the Insurance Company, learned counsel for the Insurance Company has

filed reply, wherein the route permit issued to the appellant was found to be a valid route permit. Authenticity of the route permit has been endorsed by the Surveyor and Loss Assessor of the Insurance Company and the route permit has been found to be genuine vide reports dated 12.12.2018 and 13.12.2018, which have been verified even by the Secretary Regional Transport Authority, Ferozepur.

In view of aforesaid determination of fact, the impugned award is modified. The recovery rights given to respondent No.3 are hereby withdrawn. Now the Insurance Company shall answer the claim/ amount of compensation awarded in favour of the claimants as per the award dated 19.2.2018 and subsequent liability (if any) arising out of the award in question. The amount deposited by the appellant under Section 173 of the Motor Vehicles Act is ordered to be refunded to the appellant after proper verification.

Appeal stands disposed of accordingly.

September 25, 2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No