IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

259 **Date of decision: 21.08.2019**

FAO No.284 of 2018 (O&M)

New India Assurance Co. Ltd. ... Appellant

Versus

Parminder Kaur and others ... Respondents

FAO No.290 of 2018 (O&M)

New India Assurance Co. Ltd. ... Appellant

Versus

Reshma and others ... Respondents

FAO No.291 of 2018 (O&M)

New India Assurance Co. Ltd. ... Appellant

Versus

Veena Kumari and others ... Respondents

FAO No.300 of 2018 (O&M)

New India Assurance Co. Ltd. ... Appellant

Versus

Sharda and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate for the insurance company.
None for respondent No.4.
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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.284, 290, 291 and 300 of 2018 as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from FAO No.284 of 2018.

Counsel for the appellant would fairly inform that appeal has been filed to assail findings of the Tribunal on issue No.3, reads thus:-

> Whether respondent No.1/driver of vehicle No.PB-13-H-0539 was not holding the valid and effective driving licence at the time of accident?OPR 3

It is argued that as per driving licence Ex.R1, the same was issued for motorcycle with gear and light motor vehicle w.e.f. 12.11.2012 to 14.06.2014. It is further submitted that as per date of birth of Major Singh recorded in the driving licence, he was born on 15.06.1964 and attained the age of 50 years on 14.06.2014 and for that reason, in view of the provisions of Section 14(2)(b) of the Motor Vehicles Act, 1988, licence has been issued until Major Singh attained the age of 50 years. It is further argued that since the vehicle in question is a truck having gross vehicle weight of 16,200 kgs. and driver did not possess a licence to drive a transport vehicle, the driver was not duly licensed to drive the offending vehicle and as such, the insured is guilty of violating the terms and conditions of policy entitling the insurance company to press for right of recovery against the insured after payment of compensation to the claimants.

Another submission made by counsel is that licence Ex.R1 expired on 14.06.2014. The driver or owner of the offending vehicle did not produce any evidence to prove that licence was renewed subsequent to 14.06.2014, therefore, licence Ex.R1 was not valid and effective on the date of accident that took place on 11.02.2015.

Respondent No.4, registered owner of the vehicle failed to cause appearance despite service.

Taking into consideration the aforesaid submissions made by counsel for the insurance company when examined in the light of documents Exs.R1 and R2, copies whereof were produced during course of hearing, I find merit in contention of the insurance company that Major Singh, driver of the offending vehicle was not duly licensed on the date of occurrence, therefore, the insured is guilty of violating the terms and conditions of policy by failing to take reasonable care that the vehicle is driven by a duly licensed driver and as such, the insurance company can press for right of recovery against the insured after payment of compensation to the claimants. In this view of the matter, findings of the Tribunal on issue No.3 are set aside. Issue No.3 is answered in favour of the insurance company with the findings that Major Singh did not have a valid and effective driving licence on the date of accident and the insurance company is entitle to have right of recovery against the insured after payment of compensation to the claimants.

In view of what has been discussed hereinbefore, the appeals are partly allowed in the terms indicated hereinbefore.

21.08.2019 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No