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

**FAO No.2861 of 2018 (O&M)
Date of Decision: 27.02.2019**

National Insurance Company Ltd.

Appellant

Versus

Mahindro Devi and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Lalit Garg, Advocate
for the appellant.

None for respondents No.1 to 3.

Mr. J.S. Dhaliwal, Advocate
for respondent No.4.

AVNEESH JHINGAN, J (Oral):

The award dated 24.01.2018 passed by the Motor Accident Claims Tribunal, Kurukshetra [for brevity 'the Tribunal'] has been assailed by insurer of Truck bearing registration No. NL-02K-8362 [hereinafter referred to as 'offending vehicle'].

[2] Brief facts necessary for adjudication of the present appeal are that a motor vehicular accident took place on 18.05.2014. The accident was caused due to the rash and negligent driving of the offending vehicle. In the said accident, Sandeep Kajal lost his life and Jagdish Singh sustained injuries.

[3] A claim petition was filed by legal heirs of Sandeep Kajal under Section 166 of the Act. The driver, owner and insurer were held jointly and severally liable to pay the compensation. The Tribunal awarded a sum of ₹2,10,000/- alongwith interest @ 9% per

annum.

[4] The grievance raised is that initially Driving Licence, issued by Patiala Licensing Authority, was produced before the Tribunal which was not found valid for driving a transport vehicle. Thereafter, another Driving Licence issued by Nagaland Licensing Authority was produced. The said Driving Licence was allowed to be produced as additional evidence by order of this Court in a Civil Revision Petition.

[5] Learned counsel for the appellant relied upon the report Ex.R-11 i.e. a print out from the website of Ministry of Road Transport and Highways, Govt. of India, as per which Driving Licence issued by Nagaland Licensing Authority was valid for driving transport vehicles w.e.f. 29.09.2014. He further contends that the Tribunal erred in not awarding recovery rights and further there was no endorsement to carry hazardous goods.

[6] Learned counsel for the owner argues that the driver was having a valid Driving Licence w.e.f. 29.09.2012, he relies upon the Smart Card Licence issued by the Nagaland Licensing Authority.

[7] The onus with regard to proving genuineness of the Driving Licence is on the insurer. In the present case, inspite of specific bar under Section 6 of the Act, two Driving Licences were produced i.e. one issued by Patiala Licensing Authority and another by Nagaland Licensing Authority. The address given in both the Driving Licence is of Patiala, which itself creates a doubt.

[8] Without expressing any opinion on the merits of the case,

the issue only with regard to liability to pay is remitted back to the Tribunal to be decided afresh after providing opportunity to both the parties to adduce evidence in support of their claims. The owner and driver shall be allowed to adduce evidence in support of their claims, subject to their payments of ₹10,000/- as costs, to be paid to the Poor Patient Welfare Fund of Post Graduate Institute of Medical Education & Research (PGIMER), Chandigarh. The respondents, i.e., the owner and driver initially produced licence issued by Licensing Authority, Patiala and thereafter, a licence issued by Licensing Authority, Nagaland was produced showing the address of Patiala and now in appeal, a licence issued by Nagaland Authority on Smart Card is being relied upon to show that the licence was valid for driving the offending vehicle on the date of accident. Considering the conduct of the respondents, the costs are being imposed.

[9] It is, however, clarified that as only the issue with regard to liability to pay has been remitted back, the claimants shall be entitled to receive the amount awarded by the Tribunal.

[10] The parties are directed to appear before the Tribunal on 23.04.2019.

[11] The appeal is disposed of.

[AVNEESH JHINGAN]
JUDGE

February 27, 2019
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | No |