

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 8004 of 2017 (O&M)

Date of Decision: 03.05.2019

Gulshan Kumar Gupta

.....Appellant

Versus

Sunil Kumar Sharma and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Kartar Singh, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for Insurance Company.

AVNEESH JHINGAN, J.(oral)

The award dated 3.3.2015 passed by the Motor Accident Claims Tribunal, Palwal, (hereinafter referred to as 'the Tribunal') has been assailed by the owner of truck bearing registration No.RJ-05-GA-4777 (for short 'the offending vehicle').

The grievance in the appeal is with regard to recovery rights granted to the insurer.

The factum of accident has not been disputed by the parties.

A motor vehicular accident took place on 2.1.2013. The accident proved fatal for Dhirender Kumar. The accident was result of rash and negligent driving of the offending vehicle. FIR No. 7 dated 5.1.2013 was registered at Police Station Camp Palwal. The Tribunal awarded a sum of Rs. 12,52,794/- along with interest at the rate of 7.5% per annum.

The driving licence was produced as Ex.R1. The Tribunal

vehicle from 16.11.2007 to 15.11.2010 and for other vehicles it was valid from 15.4.2011 to 14.4.2014. The accident occurred on 2.1.2013. The Tribunal concluded that the driver of the offending vehicle was not authorised to drive the transport vehicle on the date of accident, consequently the insurer was given recovery rights.

During the pendency of the appeal, an application under Order 41 Rule 27 of Code of Civil Procedure, 1908, for producing additional evidence was filed, in which copy of renewal of licence and verification report were annexed.

From the perusal of record Ex.R1, it is evident that there is one endorsement on the right side stating that licence to drive transport vehicle is valid from 16.11.2007 to 15.11.2010. On the right side at bottom it is stated that holder of this licence to drive throughout India, except hill route vehicle of following description:

"1. Motor cycle

2. Light motor vehicle.

3. Transport vehicle.

Motor vehicle of as specified description

15.4.2011 to 14.4.2014"

The position is not clear as to what is the effect of both the endorsements, as in the licence specified 'transport vehicle' in both the endorsements.

Be that as it may, alongwith the application for producing additional evidence, the verification report issued by Assistant Regional Transport Officer, Mathura, has been attached, therein it has been stated that the licence number (i.e. Ex. R1) was valid for transport vehicle for period from 15.4.2011 to 14.4.2014. As the said verification report has been produced for the first time in appeal and there is confusion with regard to

validity of Ex.R1 vis-a-vis transport vehicle, the matter with regard to liability to pay compensation is remitted back to the Tribunal to decide it afresh after providing opportunity to the owner and driver of the offending vehicle and to the insurer to adduce evidence in support of their claims. The documents annexed with the civil miscellaneous application be sent to the Tribunal. The insurer would be at liberty to verify or rebut the verification report and to produce any other evidence, if so desired.

Parties are directed to appear before the Tribunal on 30.5.2019.

03.05.2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable:	No