241(1) IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.880 of 2018 (O&M)
Date of Decision: 03.09.2019

Jiwan Singh

.....Appellant

Versus

Lila Wanti and others

........Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

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

Mr. Sandeep Singh Josan, Advocate
for respondent No.1.

Mr. Vinod Gupta, Advocate
for respondent No.2/insurance company.

NIRMALJIT KAUR, J. (ORAL)

The present appeal has been filed by the owner of the offending vehicle for setting aside the award dated 07.11.2017 passed by the Motor Accident Claims Tribunal, Ludhiana (for short, the Tribunal), to the extent vide which, a finding has been recorded against the owner and liability has been fastened only upon the owner and driver.

Learned counsel for the appellant while praying for setting aside the said finding has relied on the judgment rendered by Hon'ble Apex Court in the case of ***Pepsu Road Transport Corporation Vs. National Insurance Company, 2013 (4) R.C.R. (Civil) 273***, wherein, it is specifically held that in case the owner satisfied himself that a driver had valid driving licence, it will be the insurance company and not the insurer who will be liable.

Learned counsel for respondent No.2-insurance company while opposing the prayer of learned counsel for the appellant submitted that the owner/appellant has not been able to satisfy the condition of having verified the driving licence from the concerned department and nor he is able to say the time and date when he took the test.

Learned counsel for the parties are heard at length and also examined the record. The alleged fake driving licence has also been perused as shown to the Court.

Any person of a rural background will have no expertise to know as to whether the driving licence is fake or not. Leave alone a person from rural background, even a person with reasonable knowledge and education will not be able to find out the difference between the fake and a genuine driving licence. He is not expected to get the same verified from the Licensing Authority and in any case, the judgment rendered by Hon'ble Apex Court in the case of Pepsu Road Transport Corporation (supra) is a complete answer to the issue in hand. In fact, the said issue is no more *res integra* in view of the judgment rendered in case of Pepsu Road Transport Corporation (supra), wherein it was held as under:-

> "9. On facts, in the instant case, the appellant employer had employed the third respondent Nirmal Singh as driver in 1994. In the process of employment, he had been put to a driving test and he had been imparted training also. The accident took place only after six years of his service in PRTC as driver. In such circumstances, it cannot be said that the insured is at fault in having employed a person whose licence has been proved to be fake by the insurance company before the Tribunal. As we have already noted above, on scanning the evidence of the licensing authority before the Tribunal, it cannot also be absolutely held that the licence to the driver had not been issued by the said authority and that the licence was fake. Though the

> appellant had also taken a contention that the compensation is on the higher side, no serious attempt has been made and according to us justifiably, to canvas that position."

In the present case, the appellant has specifically filed his written statement and examined himself as RW-1. He stated that he had duly tested the competency of respondent No.1/driver. This Court has no reason to disbelieve because no person would entrust his vehicle in the hands of a stranger till he was satisfied that he knew how to drive and had a driving licence. Accordingly, this Court finds that the matter is squarely covered by the judgment rendered in case of Pepsu Road Transport Corporation (supra).

Hence, the award dated 07.11.2017 is set aside to the extent of the finding recorded by the Tribunal against the owner and the liability imposed upon the appellant/owner and the driver.

Accordingly, the compensation awarded by the Tribunal shall now be paid by the insurance company. The same be deposited within two months from today alongwith interest as already imposed by the Tribunal. In case the same is not deposited within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

The amount of ₹25,000/- already deposited, be remitted to the appellant.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

03.09.2019
sandeep

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No