IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 18.1.2019

1. **FAO No. 112 of 2019(O&M)**

National Insurance Co. Ltd. …..Appellant

VERSUS

Sanjeet and others .....Respondents

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2. **FAO No. 279 of 2019(O&M)**

National Insurance Co. Ltd. …..Appellant

VERSUS

Lalit and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.C. Kapoor, Advocate for the appellant.

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REKHA MITTAL, J.(Oral)

This order will dispose of FAO Nos.112 and 279 of 2019 as these have emerged out of the same award dated 14.12.2017 passed by the Motor Accidents Claims Tribunal, Jhajjar (in short 'the Tribunal') whereby compensation has been assessed on account of death of Sonu and injuries sustained by Lalit in a motor vehicular accident that took place on 12.03.2016 and identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from FAO No.112 of 2019.

The sole submission made by counsel for the appellant is that there are two driving licences produced before the Tribunal. The first licence is marked as Ex.R6 and the same on verification was found to be ineffective as it had already expired before the date of accident on 12.03.2016. Another licence marked as Ex.R1 was produced and the insurance company filed an application before the Tribunal for verifying its correctness and validity but the verification report was received by the insurance company after decision by the Tribunal. It is further argued that as per the verification report dated 10.10.2018 (Annexure A-1) sought to be produced by way of additional evidence (CM No.540-CII of 2019), the said licence has been cancelled by the District Transport Officer, Tuensang, Nagaland, therefore, the same was considered as null and void. It is vehemently argued that as the second licence was cancelled by the concerned authority and considered to be null and void, the insurance company is entitle to be exonerated of its liability to pay compensation or in the alternative can press for right of recovery against the insured. In support of his contention, he has relied upon judgments of this Court **Kuljeet Singh Vs. Surinder Kaur and others, 2016 ACJ 977, National Insurance Company Ltd. Vs. Arfoon Nisa and others, 2016 ACJ 1426** and **United India Insurance Company Ltd. Vs. Kesar Devi and others, 2018(4) PLR 280**.

Be that as it may, the insurance company has sought to rely upon report dated 10.10.2018 (Annexure A-1) in order to contend that second licence possessed by the driver was cancelled by the District Transport Officer, Tuensang, Nagaland and considered as null and void.

The report dated 10.10.2018 (Annexure A-1) is not per se admissible in evidence and requires to be proved in accordance with law. The report does not make reference as to the date on which the licence was cancelled. A copy of the letter sent to Rajbir Singh, driver of the offending vehicle, is dated 11.07.2018 (Annexure A-2) but the same also does not refer to the date on which licence was cancelled by the District Transport Officer, Tuensang, Nagaland. On the contrary, question of cancellation of licence would have arisen only if the same had been issued by the concerned authority. In absence of any material on record that licence possessed by Rajbir Singh was cancelled prior to the date of accident i.e. 13.03.2016, the appellant cannot seek any aid to its contention that second licence produced on record was not valid and effective on the date of occurrence or the insured is guilty of violating the terms and conditions of insurance policy.

In **Kuljeet Singh's case** (supra), this Court has taken a view that since the driver belongs to a village in District Sangrur and if he had produced a driving licence issued by Regional Transport Authority, Mathura, it could be a prima facie reason for the owner to suspect as to why the licence of a far away place was produced with which driver had no connection.

The insurance company did not examine driver of the offending vehicle in order to seek his explanation as to the circumstances under which he obtained driving licence from Nagaland as he is resident of Bahadurgarh, District Jhajjar (Haryana). In this view of the matter, the appellant cannot derive any advantage to its contention from the judgment in **Kuljeet Singh's case** (supra). Similarly, the factum of possessing two driving licences by the driver cannot be construed in favour of the insurance company when examined in the light of provisions of Section 149(2) of the Motor Vehicles Act, 1988 (in short 'the Act'). I would hasten to add that possessing of two driving licences may be an offence under the Act but the same does not create a defence in favour of the insurer that vehicle in question was being driven by a person who did not have a licence authorizing him to drive the vehicle in question. That being so, the insurance company, by relying upon judgments of this Court in **Arfoon Nisa and others case** (supra) and **Kesar Devi and others case** (supra), can neither escape its liability to pay compensation nor can press for right of recovery against the insured.

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly dismissed in limine. As the appeals have been decided on merits, applications for condonation of delay are of academic relevance.

JANUARY 18, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no