

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 1026 of 2004 (O&M)

Date of Decision: 14.01.2020

M/s Preet Roadways Regd.

... Appellant(s)

Versus

Mohinder Kaur and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Rajinder Kumar Singla and
Mr. Tarun Singla, Advocates
for the appellant.

Mr. Pardeep Goyal, Advocate
for respondent No.6.

Anil Kshetarpal, J.

An owner of a motor vehicle involved in an accident is in appeal against that part of judgment passed by the learned Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as “the learned Tribunal”) permitting recovery right to the insurance company against the owner and driver on the ground that the original driving license was fake and, therefore, merely because it has been renewed would not make it a legal and valid driving license.

Learned counsel for the appellant submits that when Manager of the appellant/company appeared in evidence as RW.1, he had specifically deposed that he himself verified the license of the driver from the office of the District Transport Officer, Patiala and came to know that his license has been renewed from the office of District Transport Officer, Mansa. It was

further stated that before employing the driver, owner of the company had satisfied about the driving skills of the driver to be employed. Learned counsel for the appellant, while relying upon the judgment passed by the Hon'ble Supreme Court in the case of *National Insurance Company Limited v. Swaran Singh (2004) 3 SCC 297* submits that once the owner before employing has taken all precautions then the owner cannot be held to have violated terms of the insurance policy.

On the other hand, learned counsel appearing for the insurance company has admitted that although in the evidence, the appellant has deposed, but in absence of pleadings such evidence could not be looked into.

This Court has considered the submissions of learned counsel for the parties. It is well known that Tribunal constituted under the Motor Vehicles Act is only governed by broader principles of rules of procedures and the Evidence Act. In these circumstances, even if it was not specifically pleaded by the owner, once evidence to that effect has been led and there is no counter evidence by the insurance company, the evidence led cannot be ignored on the ground that it is beyond pleadings. The insurance company was granted an opportunity to lead evidence but no evidence was led.

Learned counsel representing the insurance company was also granted an opportunity to cross-examine Paramjit Singh when he appeared in evidence. Learned counsel for the insurance company could not impeach the credibility of the statement made by Paramjit Singh in cross-examination.

Keeping in view the aforesaid facts and the law as interpreted

By the Hon'ble Supreme Court, recovery right given to the insurance

company against the appellant is set aside. As such, present appeal shall stand allowed to that extent.

All the miscellaneous applications, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

January 14, 2020
“DK”

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