

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

213

FAO-171-2012 (O&M)

Date of decision: 28.01.2020

M/S CHETAK LOGISTICS LIMITED

... Appellant

Versus

SAROJ AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. BS Rana, Sr. Advocate with
Ms. Divya Bajaj, Advocate for the appellant.
Ms. Puneeta Sethi, Advocate for insurance company.

REKHA MITTAL, J. (Oral)

The instant appeal has been filed by registered owner of offending vehicle i.e. Trola No.HR-38-J-9131 to assail findings of the Tribunal on the question of driving licence, on the basis whereof the insurance company has been exonerated of liability to pay compensation and only driver and owner of aforesaid vehicle were held liable to pay compensation.

Counsel would state that an application under Order 41 Rule 27 read with Section 151 CPC seeking permission to place on record copy of driving licence Annexure A1 and copy of report of Assistant Regional Transport Officer, Farrukhabad Annexure A2 has been filed and the documents are sufficient to negate plea of insurance company that Dhirender Kumar, driver of offending vehicle was not duly licenced.

Counsel representing the insurance company, on the contrary, would argue that driver and owner of offending vehicle opted to be ex parte before the Tribunal and as such, the insured failed to discharge his primary obligation to plead and prove that he had given the vehicle for driving to a person who was duly licensed.

The Tribunal did not frame any specific issue on the question of driving licence but while deciding issue No.2 as to who is liable to pay compensation has recorded findings on the question of driving licence. The appellant has filed an application for additional evidence seeking permission to place on record the aforesaid document. The insurance

company filed reply but did not counter the report Annexure A2 purported to be issued by Licensing Authority, Farrukhabad. In the given circumstances, it would be in the fitness of things that findings of Tribunal on the question of driving licence are set aside and the matter is remitted to the Tribunal for deciding the said issue afresh on the basis of evidence sought to be adduced by the appellant by way of additional evidence and thereafter evidence in rebuttal, if any, to be led by the insurance company.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms. The matter is remitted to the Tribunal for deciding the question of driving licence afresh, in view of discussion made hereinbefore. Parties through their counsel are directed to appear before the Tribunal on 18.02.2020. The Tribunal shall dispose of the matter within a period of three months of parties putting in appearance. The Tribunal would not bother the claimants or driver of offending vehicle for deciding dispute *inter se* the insured and insurer. As the appeal has been disposed of in view of aforesaid, application for condonation of delay is of academic relevance.

28.01.2020

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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No