IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4849 of 2015 (O&M)
DATE OF DECISION : 9th JANUARY, 2020

United India Insurance Co. Ltd.

…. Appellant

Versus

Smt. Tila Kumari Giri & others

…. Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Harsh Aggarwal, Advocate for the appellant.
Appeal against respondent No.1 stands dismissed.
None for respondent No.2.
Mr. L. S. Sidhu, Advocate for respondent No.3.

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RAJBIR SEHRAWAT, J. (Oral)

1. This is first appeal filed by the Insurance Company which insured the vehicle involved in the accident; on account of which the claim petition; involved in the present case, has arisen.

2. Before proceeding further it deserves to be mentioned that the Motor Accident Claims Tribunal, Mansa (in short, the Tribunal) had awarded an amount of ₹5,18,000/- in favour of the claimants. On appeal filed by the claimant the said amount was enhanced to ₹6,55,000/-. The amount of above said compensation, including the enhanced amount, already stands paid to the claimant by the Insurance Company. Hence, the present appeal has been filed by the Insurance Company only to enforce their recovery rights against the owner and driver of the insured vehicle.

3. The short question involved in this case is; whether the 'learner's license' and the 'driving license', can be treated at par for the purpose of continuity of the effect of validity of license; after expiry of period of their validity.

4. The facts involved in this appeal in this regard are; that the vehicle in question was owned by respondent No.3 and was being driven by respondent No.2 at the relevant time. Undisputedly, the driver in question was issued learner's license, which was valid from 05.10.2012 to 04.04.2013. Thereafter he was issued regular driving license w.e.f. 29.10.2013. However, in the meantime the accident in question had happened on 21.06.2013.

5. Learned counsel for the Insurance Company has submitted that since even the learner's license, obtained by the driver, had expired before the date of accident and the new license had not been issued, therefore, the driver did not have valid license on the date of accident. Hence the Insurance Company is not liable to pay the compensation on account of accident in question.

6. On the other hand, counsel for respondent No.3 submits that the driver in question was having learner's driving license which was valid up to 04.04.2013 and he was issued driving license w.e.f. 29.10.2013 in continuity of the learner's license. Hence, the finding recorded by the Tribunal qua the continuity of the validity of license; is rightly recorded. Hence, it is prayed that the present appeal be dismissed.

7. Having considered the arguments of the respective counsel for the parties and having perused the file, this court finds substance in the argument raised by the counsel for the appellant-Insurance Company.

8. Before proceeding further, it would be apposite to have reference to the provisions of the Motor Vehicles Act regarding 'learner's license', 'driving license', as well as, the provisions of the Motor Vehicles Act dealing with currency of license to drive the motor vehicle, as provided for in Sections 2(10) and 2(19) and the Sections 14 and 15 of the Motor Vehicles Act, which are reproduced as herein below:

> "**2. Definitions**.—In this Act, unless the context otherwise requires,—
>
> Xxx…. Xxx…. Xxx….
>
> (10) "driving licence" means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive, <u>otherwise than as a learner</u>, a motor vehicle or a motor vehicle of any specified class or description;
>
> Xxx…. Xxx…. Xxx….
>
> (19) "learner's licence" means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive as a learner, a motor vehicle or a motor vehicle of any specified class or description;
>
> Xxx…. Xxx…. Xxx….
>
> **14. Currency of licences to drive motor vehicles**.—(1) A learner's licence issued under this Act shall, subject to the other provisions of this Act, be effective for a period of six months from the date of issue of the licence.
>
> (2) A driving licence issued or renewed under this Act shall,—
>
> (a) in the case of a licence to drive a transport vehicle, be effective for a period of three years:

Provided that in the case of licence to drive a transport vehicle carrying goods of dangerous or hazardous nature be effective for a period of one year and renewal thereof shall be subject to the condition that the driver undergoes one day refresher course of the prescribed syllabus; and;

(b) in the case of any other licence,—

(i) if the person obtaining the licence, either originally or on renewal thereof, has not attained the age of fifty years on the date of issue or, as the case may be, renewal thereof,—

(A) be effective for a period of twenty years from the date of such issue or renewal; or

(B) until the date on which such person attains the age of 3[fifty years],

whichever is earlier;

(ii) if the person referred to in sub-clause (i), has attained the age of fifty years on the date of issue or as the case may be. renewal thereof, be effective, on payment of such fee as may be prescribed, for a period of five years from the date of such issue or renewal:

Provided that every driving licence shall, notwithstanding its <u>expiry under this sub-section</u>, continue to be effective for a period of thirty days from such expiry.

15. Renewal of driving licences.—(1) Any licensing authority may, on application made to it, renew a driving licence issued under the provisions of this Act with effect from the date of its expiry:

Provided that in any case where the application for the renewal of a licence is made more than thirty days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal:

Provided further that where the application is for the renewal of a licence to drive a transport vehicle or where in any other case the applicant has attained the age of forty years, the same shall be accompanied by a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8, and the provisions of sub-section (4) of section 8 shall, so far as may be, apply in relation to every such case as they apply in relation to a learner's licence.

(2) An application for the renewal of a driving licence shall be made in such form and accompanied by such documents as may be prescribed by the Central Government.

(3) Where an application for the renewal of a driving licence is made previous to, or not more than thirty days after the date of its expiry, the fee payable for such renewal shall be such as may be prescribed by the Central Government in this behalf.

(4) Where an application for the renewal of a driving licence is made more than thirty days after the date of its expiry, the fee payable for such renewal shall be such amount as may be prescribed by the Central Government:

Provided that the fee referred to in sub-section (3) may be accepted by the licensing authority in respect of an application for the renewal of a driving licence made under this sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from applying within the time specified in sub-section (3):

Provided further that if the application is made more than five years after the driving licence has ceased to be effective, the licensing authority may refuse to renew the driving licence, unless the applicant undergoes and passes to its satisfaction the test of competence to drive referred to in sub-section (3) of section 9.

(5) Where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed by the Central Government.

(6) Where the authority renewing the driving licence is not the authority which issued the driving licence it shall intimate the fact of renewal to the authority which issued the driving licence."

9. Coming to the facts of the present case, it is not discernible from any document on record as to when the driver/respondent No.2 had applied for issuance of a driving license on expiry of his learner's license. Hence, the record of the case does not disclose anywhere that the driver had applied for issuance of the driving license within thirty days from the expiry of his learner's license.

10. Although, the learned counsel for respondent No.3 has relied upon the judgment of the Supreme Court in the case of ***National Insurance Co. Ltd. Vs. Swaran Singh and others, 2004(2) RCR (Civil), 114***, and has submitted that the 'driving license' and the 'learner's license', are at par for the purpose of liability of the insurance, therefore,

once the regular driving license has been issued to the driver then the same shall have to be taken as having been issued in continuity, however, this argument is liable to be noted only to be rejected. Even if the learner's license and driving license are taken at par, then also, as noted above, for the purpose of granting continuity of the effectiveness of the license, the application for renewal of the license has to be made within thirty days from the date of expiry of the learner's license. There is nothing on record to show that it was applied for within 30 days after expiry of validity.

11. Otherwise also, a bare perusal of the defining clauses of the Act make it clear that there is a distinction between 'learner's license' and the 'driving license'. Both these terms have been separately defined by the Act. Not only this, the definition of the 'driving license' has specifically been made exclusively of the 'learner's license'. Hence, for the purpose of continuity of effect of license; after its expiry, these two categories of licenses cannot be treated at par. Still further, a clear-cut distinction has been made by the Motor Vehicles Act qua the validity of the 'learner's license' on one hand and the 'driving license' on the other hand. Section 14(1) of the Motor Vehicles Act provides that the 'learner's license' is valid for a period of six months. Sub-Section (2) of Section 14 deals with the validity of the 'driving license' which ranges from three years to 20 years. Hence, there is no parity between two types of licenses, as such. Although proviso to sub-Section (2) provides for continuity of validity of a 'driving license' for 30 days beyond its expiry, however, this proviso is not a proviso to Section 14(1). Rather; this proviso is a proviso to Section 14 (2) only and specifically proclaims it to

be so. Not only this, the proviso uses the term 'driving license' and not a 'learner's license'. Needless to say that 'driving license' has been defined to mean excluding the 'learner's license'. Hence, by any means, the proviso to sub-Section (2) of Section 14; cannot be taken to include within its scope even the 'learner's license'. Still further, besides this provision, there is no other provision under the Act, which extends the validity of the 'learner's license' by deeming fiction beyond the statutory validity of the same, as provided under Section 14(1) of the Act.

12. In view of the above, this court finds that the finding recorded by the Tribunal qua the continuity of the effectiveness of the 'learner's license', so as to impose the liability on the Insurance Company, cannot be sustained. Accordingly, the same is set aside and the award passed by the Tribunal is modified to that extent. The present appeal filed by the Insurance Company is allowed. Accordingly, the Insurance Company shall be entitled to recover the actual amount paid by them to the claimant, from respondents No.2 and 3; who shall be jointly and severally liable to reimburse the same to the Insurance Company.

9th JANUARY, 2020 **(RAJBIR SEHRAWAT)**
'raj' **JUDGE**

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No