

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 5514 of 2017 (O&M)

Date of Decision: 16.01.2020

Ajay Kumar

... Appellant(s)

Versus

Smt. Bakul Arora and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Jagdish Manchanda, Advocate
for the appellant.

Mr. Jangvir Singh Hooda, Advocate
for respondents No.1 to 4.

Mr. Raj Kumar Bashamboo, Advocate
for respondent No.6.

Anil Kshetarpal, J.

CM-17811-CII-2017

For the reasons stated in the application, the same is allowed.

Delay of 1125 days in filing the appeal stands condoned.

FAO-5514-2017

The owner of the offending vehicle has filed the present appeal against the award passed by the learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as “the learned Tribunal”) dated 21.04.2014 absolving the insurance company from the liability to pay compensation on the ground that Jagat Singh, driver of the vehicle, was not possessing a valid driving license. At this stage, it will be noticed that when the driver was apprehended, after the accident, he handed over the driving

license Ex.RX allegedly issued by the Regional Transport Office, Agra. The Tribunal summoned the record from criminal case file for production of the driving license Ex.RX. The insurance company disputed the genuineness of the driving license Ex.RX. It produced RW.1 Bharat Saraswat, Junior Assistant, Regional Transport Office, Agra, to prove that the aforesaid driving license has been issued to Rayeth Kumar son of G.S.Tomar and not to Jagat Singh.

Faced with this situation, respondent No.1, while appearing in evidence, produced another driving license Ex.RW.3/B purported to have been issued by the office of the District Transport Officer, Zunhovoto, Nagaland. However, no evidence was produced by the driver to prove that the aforesaid driving license is genuine. Thus, the learned Tribunal held that the insurance company was not liable.

Learned counsel for the appellant submitted that once the second driving license issued by the competent authority in the State of Nagaland has been produced, it was the duty of the insurance company to rebut the same. He submitted that since the insurance company did not take any step, therefore, the award passed by the learned Tribunal is erroneous.

On the other hand, learned counsel appearing for the insurance company has submitted that the appellant was required to plead in his reply to the claim petition, about his driving license. He submitted that initially the appellant produced the driving license Ex.RX, which was found to be fake. The insurance company got it verified and proved, by examining a witness from the office of the Regional Transport Officer, Agra, that such license is in fact fake. He further submitted that in the absence of any reliance placed

upon Ex.RW.3/B, the alleged driving license issued by the competent authority at Nagaland, the insurance company cannot be expected to get all the driving licenses which may be produced by a driver verified. He submitted that now the onus was on the appellant/driver. In this regard, he relies upon a judgment passed by the 3 Judges Bench of the Hon'ble Supreme Court in the case of ***Pappu and Others v. Vinod Kumar Lamba and Another 2018(2) R.C.R. (Civil) 42.***

He further submitted that as per Section 9 of the Motor Vehicles Act, 1988, the driving license can be issued only in two eventualities - (i) if the person applying for driving license originally resides or carries on business from the aforesaid area and (ii) the person applying for driving license is receiving instructions in driving a motor vehicle from a school or an establishment situated/located within the aforesaid local area. In this regard, he relies upon a judgment passed by this Court in ***United India Insurance Company Limited v. Kesar Devi and Others (F.A.O. No. 5907 of 2011, decided on 14.08.2018).***

Learned counsel for the appellant, on the other hand, relies upon a judgment of the Hon'ble Division Bench of this Court in the case of ***United India Insurance Company Limited v. Raj Rani 1996 (2) PLR 495*** to contend that it is the duty of the insurance company to verify and prove before the Court that the driving license, even it is second one, is not valid. The judgment passed by the Hon'ble Division Bench of this Court is to be read in consonance with the judgment passed by the Hon'ble Larger Bench of the Hon'ble Supreme Court in the case of ***Pappu and Others (supra)***. In the case of ***Pappu and Others (supra)***, it has been held that it is incumbent

on the party (driver-respondent) in the claim petition pending before the Motor Accident Claims Tribunal, to immediately produce a copy of the driving license and supply particulars to the insurance company enabling the insurance company to verify the correctness thereof.

As noticed in the present case, the first driving license, which was taken into possession by the police, on being verified by the insurance company was found to be fake. Still further, no evidence has been produced to prove that Jagat Singh has ever resided in the State of Nagaland or has taken driving instructions from a school or an establishment of the locality in the aforesaid area. In view thereof, no ground is made out to interfere.

Dismissed.

The miscellaneous application(s), if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

January 16, 2020
“DK”

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