

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANIDGARH

FAO-7771-2017 (O&M)
Date of Decision: 25.02.2020

Rajesh

... Appellant

Versus

Jai Narain and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rajesh Hooda, Advocate,
for the appellant.

Mr. Rajnish Malhotra, Advocate,
for respondent No.6.

RAJIV NARAIN RAINA, J (ORAL)

1. This is an appeal by owner against the award dated 18.07.2017 passed by the Motor Accident Claims Tribunal, Rohtak, (hereinafter referred to as “the Tribunal”) disputing liability to pay compensation to the claimants in a fatal motor accident. The Tribunal granted right to the Insurance Company to recover the compensation from the owner and driver. Accordingly, the compensation was paid and has been disbursed to the claimants. They are no longer required for the present proceedings nor for the proceedings this Court proposes by remanding the case to the Tribunal to consider two vital public documents issued by the Transport Commissioner, Government of Nagaland, Motor Vehicles Department, Kohima, Nagaland dated 01.08.2014 and the other public notice dated 18.12.2017.

2. By the first Public Information notice dated 01.08.2014, Nagaland Government has started the exercise of digitizing driving licences in the National Application “SARATHI” under the directions of the Government of India, New Delhi. The old non-digitized/booklet form Driving licences for years and years were required to be converted into Smart Card Driving licences through the National Software which process has been going on from 30.10.2009 in the State of Nagaland. The “Public Information” notice advised Driving Licence holders possessing the Booklet type or on any formal manual formats, other than Smart Card, to get them issued before 01.12.2014, after which Driving licences other than Smart Card shall be treated as cancelled. This notice was issued in the interest of public safety and in exercise of the authority conferred by Section 19(1)(e) of the Motor Vehicles Act, 1988.

3. A few facts may be necessary before I advert to the second public notice of 18.12.2017.

4. In this case the Driving Licence was issued to the respondent-driver on 22.12.2007 in Nagaland. It was renewed by the Nagaland authorities on 10.01.2011 valid through 21.12.2016. The accident took place on 07.09.2016. The Tribunal treated the Driving Licence as invalid and discharged the liability of the Insurance Company which were no longer under contract to indemnify the insured due to the driver holding invalid driving licence. The burden was shifted on the owner with a right to recover against him. The execution proceedings were started against the appellant-owner and that has brought him to this Court in the present appeal.

5. Mr. Rajesh Hooda, learned counsel for the appellant has filed

an application for leading additional evidence under Section 41 Rule 27 read with Section 151 CPC appending thereto the public notice dated 18.12.2017, which reads as follows :-

“ **PUBLIC NOTICE**

In supersession of the “PUBLIC NOTICE” issued vide No. TC-23/MV/2007(PT-I)/1077-88 dated 01/08/2014, wherein holders of non-digitized/ booklet form of Driving Licenses had been directed to digitize their Licenses in the National Application “SARATHI”. Holders of non-digitized format of Registration Certificates or Driving Licenses are given a moratorium period for digitizing both vehicle Registration Certificates and Driving Licenses on or before 30/04/2018, failing which, the Registration Certificates or Driving Licenses shall be nullified.

All non-digitized Registration Certificates and Driving Licenses digitized till date shall also be treated valid for all legal considerations.

This Notice is issued in accordance to the observations made by the Supreme Court Committee on Road Safety in item No. 11 of its letter No. 23/CoRS/2014 dated 28/09/2017 and as per the directive of the Government vide TPT/MV/20/2017(PT-1) dated 20/11/2017.

(ELIAS T.LOTHA)

Transport Commissioner.

No. TC/MV-2/17/5966-76 Dated 18th December,2017.”

6. The Public Information Notice dated 01.08.2014 is Ex. R-5 on the record of the Tribunal. The application is allowed on the ground that the reliance is on a public document. The photocopy is accepted as authentic saving just exceptions which the Insurance Company may take before the

Tribunal regarding the notification. In view of this notification, the digitizing date has been extended to 30.04.2018 which validates the license issued in 2007 and re-issued on 2011 till 30.04.2018 covering the date of the accident and, therefore, saving the policy of Insurance as intractable. This document was not before the Tribunal when it passed the award. In these circumstances, it would be appropriate to remit the case to the Tribunal to consider the subsequent public notice and pass a fresh order. To make way for the fresh award, the impugned award has to be set aside to the extent of liability of owner and driver as against the Insurance Company.

7. The appeal is partly allowed. The case is remanded. The Tribunal will offer an effective opportunity of hearing to both the parties with regard to the evidence or any further evidence on the issue of the Driving Licence that validity of the parties may adduce before the Tribunal. Accordingly, the execution proceedings shall be kept in abeyance to await the fresh award. The amount of Rs. 25,000/- deposited with this Court for entertaining the appeal is remitted to the Tribunal for disbursing it to the successful party by adjusting it with the final compensation that may be awarded.

8. To cut the matter short, parties are directed to appear before the Tribunal on 17.03.2020 for further proceedings.

(RAJIV NARAIN RAINA)
JUDGE

25.02.2020
Satyawar

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