

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

FAO-62-2021 (O&M)
Date of decision : 06.10.2021

New India Assurance Company Ltd.

....Appellant(s)

Versus

Deepak Singh and others

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Harsh Aggarwal, Advocate,
for the appellant.

MAHABIR SINGH SINDHU, J.

Present appeal has been filed by the insurance company under Section 173 of the Motor Vehicles Act, 1988 (*for short 'Act'*) against the impugned Award dated 06.12.2019, passed by learned Motor Accident Claims Tribunal, Panchkula (*for short 'Tribunal'*).

Claim petition was filed under Section 163-A of the Act by claimant/respondent Nos.1 & 2 on account of death of their father, namely, Mohinder Singh, hereinafter “deceased”.

Learned Tribunal, after taking into consideration the material available on record granted compensation to the tune of ₹5,00,000/- (Rupees five lakh only) along with interest at the rate of 7.5% per annum from the date of filing of the petition till its realization.

Aggrieved against the above award, present appeal has been preferred.

Learned counsel for the appellant raised solitary contention to

the effect that driver-Kuldeep Singh (respondent No.3) was not holding a valid licence for the motor-cycle, therefore, the impugned award is not legally sustainable.

Heard learned counsel for the appellant and perused the paper-book.

It transpires that on 07.12.2018, deceased was travelling as a pillion rider on motor-cycle bearing registration No.PB-65-AF-7803, from Pinjore to Village Dhamala, Tehsil Kalka, District Panchkula along with respondent No.3. When they reached near Pooja Sweets, Model Town, Pinjore, all of a sudden, stray dog came in front of the motor-cycle and in order to save it, respondent No.3 lost control over the motor-cycle. Resultantly, motor-cycle struck against the dog and both of them fell down on the road. Mohinder Singh (deceased) suffered severe and grievous injuries all over his body including multiple fractures. Soon after the accident, he was taken to Civil Hospital, Sector-6, Panchkula, and after giving first aid, referred to PGIMER, Chandigarh, but could not survive and died on 09.12.2018.

Learned Tribunal while deciding issue No.3 in para Nos.22 & 23 of the impugned award came to the following conclusions:-

“22. It is an admitted fact that the offending vehicle i.e. motor-cycle bearing registration No.PB-65-AF-7803 was insured with respondent No.3 as is clear from insurance policies Ex.R-3/Ex.RX and the vehicle was insured from 17.02.2018 to 16.02.2019. The accident occurred on 07.12.2018. Hence, the offending vehicle was insured with respondent No.3 on the day of accident. Ex.R-1 is the notarized copy of driving licence of

respondent No.1 whereby respondent No.1 Kuldeep Singh was authorized to drive LMV-TR and same was issued on 12 January, 2007 and is valid till 04 June, 2021. Notarized copy of registration certificate Ex.R-2 shows that respondent No.2 Kamal Preet Singh S/o Shri Balraj singh is the registered owner of the vehicle i.e. motor-cycle bearing registration No.PB-65-AF-7803.

23. Burden to prove this issue was on respondent No.3 and to prove this issue, insurance company examined Ms. Shilagha, Sub-Inspector, from the office of RTO, Panchkula as RW-1, who has brought the summoned record pertaining to driving license of Kuldeep Singh bearing DL No.HR-6820070015734 issued on 12.01.2007 and was valid from 12.01.2007 to 10.01.2010 and valid for driving the motor-cycle, car, Jeep and LTV only. She further deposed that the said driving license was renewed on 24.08.2010 to 10.01.2013 and again renewed on 11.05.2013 to 09.01.2016 and lastly, renewed on 05.06.2018 to 04.06.2021. He proved on record the copy of register of driving licences on Form No.10 as Ex.RW1/A and details of driving license as Ex.RW1/B.”

Perusal of para No.23 reproduced hereinabove reveals that licence of respondent No.3 was renewed on 05.06.2018 up to 04.06.2021 (Ex.RW1/A & Ex.RW1/B). Records of the learned Tribunal is already requisitioned and this Court has gone through the same. The driving licence of Kuldeep Singh (respondent No.3) is very much available and relevant clauses of which read as under:-

“LTV TRANSPT

MC/CAR/JEEP”

Perusal of above extracted portion reveals that driver of the motor-cycle was holding valid driving licence for driving Light Transport Vehicle, Motor-cycle, Car and Jeep.

In view of the above, the contention of learned counsel for the appellant is not acceptable and the same deserves to be rejected.

As a result thereof, this Court does not find any ground to interfere with the findings recorded by learned Tribunal in para Nos.22 and 23 extracted hereinabove.

Consequently, the appeal lacks merit and hereby dismissed.

(MAHABIR SINGH SINDHU)
JUDGE

06.10.2021

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Whether speaking / reasoned : Yes No

Whether Reportable : Yes No