IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

119 FAO-3362-2021 (O&M)

Date of decision: 10.12.2021

CHANDI RAM ..Appellant

Versus

SUMAN DEVI AND ORS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Shaveta Sanghi, Advocate
Mr. Aditya Sanghi, Advocate
Mr. Lokesh Sharma, Advocate
for the appellant.

***

ANIL KSHETARPAL, J (Oral)

The Motor Accidents Claims Tribunal, Hisar, while allowing the claim application filed under Section 166 of the Motor Vehicles Act, 1988, on account of death of late Sh. Lalit has permitted the insurance company to recover the amount from owner and driver of the offending vehicle, which was found to be driven rashly and negligently.

The driver of the bus assails correctness of the findings of the Tribunal with respect to grant of the recovery rights to insurance company against the appellant. The appellant in order to prove his driving licence examined Sumit Nahar, RW3 an official from the Regional Transport Authority Office, Jhansi, from where the alleged driving licence is stated to have been issued. Sh. Sumit Nahar failed to prove that the driving licence was issued by the office of RTA, Jhansi. He stated that some part of the register, where the particulars with respect to issuance of various other driving licence are noted is damaged. However, he failed to draw the attention of the Court with regard to issuance of a valid licence in favour of the appellant. In these circumstances, the Tribunal has permitted the Insurance Company to recover the amount from the owner and driver.

Heard the learned counsel for the appellant at length and with her able assistance perused the paper book.

The learned counsel for the appellant contends that when the driving licence allegedly issued by the RTA, Jhansi, has been renewed, the licence should be deemed to have been original, particularly, when the officials have stated that they renewed the licence only after verifying the correctness of issuance of original licence. She relies upon the judgment passed by the Division Bench in **Oriental Insurance Co. Ltd. Vs Dalbir Singh, LPA No.66 of 1989, decided on 09.09.1997**. She further contends that no recovery rights could be ordered in case the appellant failed to prove that he was having a valid driving licence. She relies upon judgment passed in **Jondhan Kalan, Coop. Transport Society Ltd. vs. Ganga Devi and ors., FAO No.4365 of 2015 (O&M), decided on 06.12.2019.**

The appellant is a driver of the offending vehicle. As already noticed Sumit Nahar, Junior Assistant Clerk from the office of Regional Transport Authority, Jhansi has appeared in evidence. He has proved the communication that the alleged driving licence has not been issued by his office. He has also stated that the driving licence produced by the appellant was never issued by the RTA office, Jhansi. The witness during cross examination has stated that he has brought the original record of RTA office, Jhansi and at that time, there was only one register. The attention of the witness was drawn to certain damaged pages and cuttings in the register. However, the appellant failed to prove that he was issued a driving licence in the year 1982, as claimed.

The argument of learned counsel that the licence has been renewed does not advance the case of the appellant. Renewal of the driving licence does not result in the validation of a fake driving licence. The statement of the witness that the driving licence is renewed after verifying the original, is not sufficient to prove that the original driving licence was valid particularly when Sumit Nahar official from RTA, Jhansi has categorically stated that the licence was never issued by RTA, Jhansi. This Court has carefully read the judgment passed in **Oriental Insurance Co. Ltd. (supra)**. The Division Bench upheld the judgment passed by the learned Single Judge. In that case, the register incorporating the entry of the issuance of the driving licence was not produced in the Court. Thus, the Court held that the Insurance Company has failed to produce evidence to the effect that the licence was forged. The aforesaid judgment is in the facts of the case and is not applicable.

As regards second argument of learned counsel it may be noted that the judgment passed in **Jondhan Kalan, Coop. Transport Society Ltd. (supra)** is in the context of liability of the owner particularly when he appears in the witness box and states that he had checked the driving licence of the driver and had taken a driving test, in order to satisfy the driving skills of the driver. In those circumstances, the Court has held that the owner is not liable because he has knowingly and intentionally not violated the terms of the policy. In **Jondhan Kalan, Coop. Transport Society Ltd. (supra),** the Court relies upon the judgment passed in **National Insurance Co. Ltd. vs. Swaran Singh, 2004 ACJ 1**. The judgment passed by the Hon'ble Supreme Court is in the different context.

Keeping in view the aforesaid facts, no ground to interfere in the impugned award is made out.

Dismissed.

All the pending miscellaneous application(s), if any, are also disposed of.

10.12.2021 **(ANIL KSHETARPAL)**
ashok **JUDGE**

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