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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 10.12.2021

\+ MAC.APP. 84/2021 & CM APPL. 5971-72/2021

RAVI KUMAR & ANR. ..... Appellants

versus

HDFC ERGO GENERAL INS CO LTD & ORS. ..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Somnath Parashar, Advocate (through VC).

For the Respondent: Mr. S.P.Jain, Advocate for R-l (through VC).

CORAM:-
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns award dated 17.01.2020 whereby the Detailed Accident Report (DAR) has been disposed of and compensation awarded. The challenge of the appellant who was the driver and owner of the vehicle is limited to the extent of grant of recovery rights to respondent No.1, the insurance company. Recovery rights have been granted to respondent No.1 solely on the ground that the driver did not possess a valid driving license at the time of the accident.

2. Learned counsel for the appellant submits that the driver was

holding a valid driving license but the same had been misplaced and it was specifically mentioned in the written statement that the original driving licence had been misplaced. However, the driving license number as well as period of validity, which was from 08.10.2004 to 07.10.2024, for motorcycle plus LMV (NT) issued by the Rohini Authority at Delhi was given in the written statement.

3. Learned counsel submits that there was no verification done either by the insurance company or the IO with regard to the driving license number.

4. An application under Order 41 Rule 27 has been filed by the appellant seeking to place on record a report from the motor licensing authority dated 18.12.2020 which certifies that the driving license was issued to the driver, appellant No.2 and the date of issuance was 08.10.2004 and expiry date 07.10.2024 and the driving license was for Light Motor Vehicle (NT) and motorcycle.

5. Learned counsel appearing for the insurance company submits that the said particulars have been verified and the driving license has been found to be genuine.

6. He, however, contends that at the relevant time appellants failed to produce the driving license before the Court or even submit the same to the Investigating Officer. Accordingly, the recovery rights have been granted.

7. In view of the above, the application under Order 41 Rule 27 is allowed. The certificate of the licensing authority is taken on record.

8. Perusal of the impugned award shows that the recovery rights have been granted against the appellant solely on the ground that driving license was not produced and thus the Tribunal has held that the driver of the offending vehicle was not holding a valid driving license at the time of the accident.

9. In the written statement filed by the driver and owner, the details of the driving license with particulars i.e. the number, period of validity and class of vehicle is clearly stated. Same has now also been certified by the motor licensing authority to be correct. The particulars have already been verified by the insurance company and found to be correct.

10. In view of the above, the impugned order, to the extent that it holds that the driver was not holding a valid driving license, is erroneous and liable to be set aside. The consequential order granting recovery rights to the insurance company, on the ground that the driver was not holding a valid driving license, also cannot be sustained.

11. Accordingly, the impugned order to the extent that it grants recovery rights to the insurance company is set aside. However, for the reason that the appellant failed to produce a copy of the license or

appear in the trial, after filing of the written statement, appellant shall be liable to compensate the insurance company towards the additional costs incurred, which are quantified at Rs. 1 lakh. Appellant shall pay the costs to the insurance company within four weeks from today.

12. Appeal is disposed of in the above terms.

SANJEEV SACHDEVA, J.

DECEMBER 10, 2021
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