

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

(105)

FAO-2455-2022 (O&M)

Date of Decision : April 10, 2023

Dostana Bus Service**.. Appellant****Versus****New India Assurance Co. Ltd. and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Surinder Singh Daaria, Advocate, for
Mr. J.S. Warring, Advocate, for the appellant.

HARSIMRAN SINGH SETHI J. (ORAL)

Present first appeal has been filed by the appellant challenging the Award passed by the Motor Accident Claims Tribunal, Bathinda dated 31.01.2022 by which, issues No. 1 and 2 have been decided holding the appellant liable for the payment of compensation.

Learned counsel for the appellant argues that the appellant, who is owner of the offending vehicle, has been made liable for the payment of compensation on the ground that the driver was not holding a valid licence on the date of accident whereas, on the date when the driver was appointed, he was having a valid licence, which was duly checked, hence, keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in *Civil Appeal Nos. 1999-2000 of 2020 titled as Nirmala Kothari vs. United India Insurance Company Limited, decided on 04.03.2020*, the

owner of the vehicle, cannot be made liable because of the invalid driver licence of the driver when the vehicle in question is insured.

I have heard learned counsel for the appellant and have gone through the record with his able assistance.

In the present case, a fact has been recorded that though at the time when the driver was employed by the appellant, he was having a valid licence but the said licence expired on 23.01.2011. The licence was issued for a period of three years to the driver concerned but without renewing of the said licence, the driver was driving the vehicle in question for a period of eight years as the accident in question took place on 13.01.2019. In the facts and circumstances of the present case where, the owner has projected that he had seen the licence of the driver at the time of recruitment, it is clear that the owner of the offending vehicle knew that the validity of the licence is only upto January 2011.

Nothing has been brought to the notice of this Court from the evidence which has come on record that at any given point of time after January 2011, the owner of the offending vehicle ensured the renewal of the said licence in any manner. This shows that the owner despite having the knowledge of the expiry of the licence of the driver in January 2011 allowed him to drive the vehicle, hence, it cannot be said that the owner i.e appellant herein, was vigilant enough to see that the vehicle owned by him is being driven by a person competent to do so, hence, no interference is called for in the findings recorded by the Tribunal.

With regard to the judgment in *Nirmala Kothari's case (supra)*, the reliance being placed by the learned counsel for the appellant is misplaced. It is only where the owner ensured that the driver in question

has valid licence, though subsequently the same was found to be fake, the liability of the owner was absolved whereas in the present case, the facts are entirely different as the owner in the present case knew after verification that the licence being held by the driver was only valid upto January 2011 but he still allowed the driver to drive the vehicle for a period of eight years after the expiry of the said licence.

The judgment in *Nirmala Kothari's case (supra)* is not applicable in the facts and circumstances of the present case.

Keeping in view the above, no ground is made out for any interference called by this Court.

Dismissed.

CM-7116-CII-2022

As the main appeal has been dismissed, present application also stands dismissed.

April 10, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No