

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 2854/2022 (O&M)
Date of decision:23/03/2023

Amritpal Singh and another

.....Appellants

Vs.

Royal Sunderam Insurance Co.Ltd. and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Arvind Kashyap, Advocate for the appellants.

Mr. D.K. Prajapati, Advocate for respondent no.1-Insu.Co.

Nidhi Gupta, J.

Present appeal has been filed by the owner and driver of Truck bearing registration No. PB-23D-6937 (hereinafter referred to as 'the offending vehicle').

It is submitted by the ld. Counsel for the appellants that the Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the ld. Tribunal') fell in error in granting recovery rights against the compensation amount of Rs. 8,20,000/- to respondent Insurance Company on the ground that the appellants had not produced and proved the permit of the offending vehicle on record, whereas the said permit had been duly produced and proved by the appellants as Ex.R5. Ld. Counsel refers to Annexure A-1, which is certified copy of the statement of the driver of the offending vehicle/ appellant no.2 herein, and Exhibit R-5; copy of Goods Permit. It is submitted that a perusal of said statement dated 15.3.2022 shows that appellant no.2 while closing his evidence had duly tendered a

copy of the Registration Certificate of offending vehicle as Ex.R1; Certificate of fitness of the offending vehicle as Ex.R2; Insurance policy for the period from 23.12.2020 to midnight of 22.12.2021 of the offending vehicle as Ex.R3; his driving licence as Ex.R4; and Goods Carriage Permit for hire and reward as Ex.R5.

Heard.

A perusal of the impugned Award shows that Id. Tribunal in para 24 has noted that *“Since the respondents no.1 and 2 have not produced and proved on record the permit of offending vehicle, therefore, the first liability to pay compensation is that of respondent no.3 Insurance Company with right to recover”*. From the above facts as put forward by Id. Counsel for the appellants, it appears that the Id. Tribunal has granted right of recovery on the mistaken ground that the permit of the offending vehicle was not produced and proved on record by the appellants. Id. Counsel for the respondent Insurance Company is unable to deny this apparent factual misapprehension on record.

Accordingly, in view of the above said facts, and on joint request of the parties, the matter is remanded back to the Id. Tribunal for deciding the claim petition afresh , however, only in respect of issue of the “Permit” of the offending vehicle, and the ensuing recovery rights accorded to the respondent Insurance Company.

Further, as the accident in this case had taken place on 29.1.2021, the Id. Tribunal is directed to decide the claim petition on the issue of “Permit”/ recovery rights, in a time bound manner preferably within a period of 6 months from today.

Appeal disposed of accordingly.

23/03/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No