

**CM-26781-CII-2014 and CM-21861-CII-2018 in/and
FAO-2931-2011**

2023:PHHC:069176 1

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

(208)

**CM-26781-CII-2014 and
CM-21861-CII-2018 in/and
FAO-2931-2011
Date of Decision : May 12, 2023**

Oriental Ins. Co. Ltd.

.. Appellants

Versus

Bhupinder Kaur and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.C. Gupta, Advocate, for the applicant-appellants.

Mr. Karan Bhardwaj, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-26781-CII-2014

Present application has been filed for recalling the order dated 18.11.2014 by which, the present appeal was dismissed for non-prosecution.

Application for restoration was immediately filed in which notice of motion was issued, which application has come up for consideration before this Court today.

Keeping in view the facts mentioned in the application, which are duly supported by an affidavit especially when no serious objection has been taken by the opposite counsel for allowing the prayer as raised in the

present application, the application is allowed and the order dated

18.11.2014 is recalled and the first appeal is restored to its original number and status.

CM-9600-CII-2011

By this application, the verification report of the licence of the driver of the offending vehicle has been sought to be placed on record as Annexures A-1 and A-2.

Learned counsel for the appellant submits that the said exhibits which were received by the Insurance Company after the award of the Tribunal, are very material for deciding the liability to pay compensation, hence, the said application may kindly be allowed and Annexures A-1 and A-2 be taken on record for deciding the appeal.

Keeping in view the fact that learned counsel for the respondents-claimants has raised no objection and the driver and owner of the offending vehicle have already been proceeded ex parte, keeping in view the facts and circumstances of the present case, the application is allowed. Annexures A-1 and A-2 are taken on record.

FAO-2931-2011

1. Present appeal has been filed challenging the Award dated 02.02.2011 passed by the Motor Accident Claims Tribunal, Ferozepur by which, the claimants were found entitled for a compensation of Rs.7,27,000/- along with interest.

2. Learned counsel for the appellant-Insurance Company argues that in the present case, there was a dispute with regard to the genuineness of the driving licence of the driver of the offending vehicle and though, due verification was being done but the report qua the fake licence was only

received from the authorities concerned after the impugned Award was pronounced on 02.02.2011. Learned counsel for the appellant submits that the said report was received on 22.02.2011 that the licence of the driver was fake. Learned counsel for the appellant further submits that keeping in view the said fact, though the appellant-Insurance Company is not raising any grievance qua the amount of compensation awarded but their only grievance is that respondents 1 and 2 i.e. driver and owner of the vehicle were exonerated from the payment of the compensation, which needs re-consideration at the hands of this Court in the present appeal.

3. It may be noticed that the driver and owner of the offending vehicle were served through publication but no one has appeared on their behalf, hence, they be proceeded ex parte.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. A bare perusal of Annexures A-1 and A-2 would show that the driver of the offending vehicle was not having a valid licence. Report Annexures A-1 and A-2 has gone un-rebutted. That being so, the owner and driver of the offending vehicle could not have been exonerated from their liability to pay compensation. That being so, the Award of the Tribunal is only modified to the extent that the claimants will be entitled for compensation to the tune of Rs.7,27,000/- along with interest and other emoluments mentioned therein. Though, the Insurance Company will pay the same but they will be entitled to recover the said amount from the owner and driver of the offending vehicle in accordance with law.

6. The present appeal is allowed in above terms.

7. Any application pending if any, is also disposed of.

CM-21861-CII-2018

As the main appeal has been allowed, present application also
stands disposed of.

May 12, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No