

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 5473/2019

Date of decision:01/03/2023

United India Insurance Company Limited.

.....Appellant

Vs.

Kaka Singh and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rajesh K. Sharma, Advocate for the appellant.

Nidhi Gupta, J.

1. Present appeal has been filed by the Insurance Company assailing the Award dated 9.5.2019 passed by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') in MACP No.114/ 18.5.2018 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act') whereby compensation of Rs.1,18,500/-has been awarded to injured-claimant/respondent no.1 herein, along with interest @ 9% per annum from the date of filing of the claim petition till realization.

2. Ld. Tribunal on the basis of pleadings and evidence before it concluded that the claimant had received injuries in a motor vehicular

accident that took place on 2.12.2017 due to the rash and negligent driving of Canter bearing registration No. PB-11-AL-9978 (hereinafter referred to as 'the offending vehicle'), being driven by respondent no.2, owned by respondent no.3 herein, and insured by the appellant.

3. Ld. Tribunal awarded compensation as under:-

S.No.	Description	Amount (in Rupees)
1	Medical expenses	58,500/-
2	Pain and suffering	15,000/-
3	Expenses for attendant	5,000/-
4	Transportation expenses	10,000/-
5	Special Diet	10,000/-
6	Loss of earnings	20,000/-
	Total	1,18,500/-

4. It is submitted by the ld. Counsel for the appellant Insurance Company that the ld. Tribunal was in error in holding the appellant liable as the driving licence of respondent no.2 herein was fake. It is submitted that respondent no.2 was currently holding license bearing No. PB-1120080048226 dated 25-05-2008 issued by Licensing Authority, Patiala to drive LMV/MCWG/LMV-CAB/ Transport, and the validity of the Transport Endorsement was from 12.12.2017 to 11.12.2020. It is submitted that the original licence was issued from Licensing Authority, Samana having No. 48226/ SAMANA/ 08; and on verification, though the renewal of the license was found to be genuine, however, Original licence which was got issued from Licensing Authority, Samana was also got verified but the same was found to be fake. It is further submitted that to establish the said fact the appellant had even examined RW1 Satbir Singh, Junior Assistant, Licensing Authority, Samana to prove that the Driving licence no. 48226/Samana/08

was not issued to respondent no.2 and the same was fake. It is submitted that although the renewal of licence was genuine but since the original issuance of licence being fake, liability could not have been fastened upon the appellant Insurance Company. In support learned counsel cites judgment of the Hon'ble Supreme Court in **New India Assurance Co. v Kamla, 2001 (3) RCR (Civil) 718** to submit that renewal of fake licence/endorsement cannot take away inherent fatality of the original.

5. No other argument has been raised on behalf of the appellant Insurance Company.

6. Heard Id. Counsel for the appellant.

7. It is admitted by the Id. Counsel for the appellant that the renewal of the licence currently held by respondent no.2 is genuine. On a Court query, learned counsel is unable to explain as to how the Authorities could have renewed a licence which is originally stated to be fake. Further a perusal of the record shows that appellant Company was unable to establish even before the Tribunal that original was fake. Reliance is placed upon testimony of sole witness RW1 Satbir Singh who has stated that Driving licence no. 48226/Samana/08 issued in the name of respondent no.2 was not issued by the Licensing Authority, Samana. Admittedly, the driving licence held by respondent no.2 at the time of accident has been placed on record as Ex.RX1 and shows validity from 12.12.2014 till 11.12.2020 for Transport Vehicles, and accident took place on 2.12.2017. Admittedly, Ex.RX1 held by respondent no.2 was genuine as per own statement of the appellant. Therefore, as per appellant, on date of accident, respondent no. 2 held a valid driving license. Even status report on Ex.RX1 shows RTA Patiala in the last

column. Even RW1 in his cross-examination has stated that “*expired Driving Licence can be renewed from RTA Patiala. Driving licence no. 48226/Samana/08 can be issued by RTA Patiala*”.

8. From the above facts, it is clear that learned counsel has not been able to bear out his contention. Even on repeated queries by this Court, learned counsel was not able to show as to how the original licence borne by respondent no.2 is shown/ proven to be fake. Admittedly, the only ground on which said assertion is being made by the ld. Counsel for the appellant is that as per RW1 he had stated that original licence bearing No. 48226/Samana/08 was not issued by the Licensing Authority, Samana as in the year 2008, driving licenses were issued only from Serial No.1 to 1117. However, ld. Counsel is unable to show as to how a purportedly fake licence was renewed. Further, no record in support of the said contention is stated to have been produced before the Tribunal, nor has been brought before this Court.

9. Accordingly, finding no merit in this appeal the same is hereby, dismissed.

10. Pending application(s),if any, stand disposed of.

01/03/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No