

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

Sr. No.105

FAO-934-2014 (O&M)

Date of Decision: 25.08.2023

FIRM SHARMA LOOK PLOT

....Appellant

Versus

RULDU RAM AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Kushagra Mahajan, Advocate,
for the appellant.

None for respondent No.1.

Mr. Lalit Garg, Advocate,
for respondent No.2-Insurance Company.

Mr. Vineet Sharma, Advocate,
for respondent No.3.

ARCHANA PURI, J. (Oral)

The present FAO had been filed by the owner of the offending truck bearing No.PB02-E-9961, to assail the Award dated 30.10.2013 passed by learned Motor Accident Claims Tribunal.

Initially, the claimant-Sawinder Singh had filed the claim petition i.e. MACT-48-2011 and the same was decided on 30.10.2013. Vide this Award,

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while granting compensation to the extent of Rs.5,75,000/-, besides the interest clause, also, the liability was held to be joint and several of respondents No.1, 2 and 3. Besides the same, Insurance Company was also given the recovery rights, *vis-a-vis* the compensation amount, recoverable from respondents No.1 and 2 before learned Tribunal, i.e. the present appellant, as well as the driver of the offending vehicle, namely, Ruldu Ram.

Feeling aggrieved with the recovery rights, having given to the Insurance Company, the owner (who was respondent No.2 before learned Tribunal), had filed the present appeal. During the pendency of the FAO in hand, an application for leading additional evidence i.e. CM-904-CII-2023, has also been filed at the behest of the appellant, thereby making a prayer for taking into consideration the report dated 29.05.2015 made by the District Transport Officer, Amritsar, *vis-a-vis* the validity of the driving licence of driver-Ruldu Ram.

At this juncture, it is pertinent to mention that while passing the Award, the question with regard to validity of the driving licence of respondent No.1, driver-Ruldu Ram, was taken into consideration and learned Tribunal had reached the conclusion that Ruldu Ram was not having valid driving licence for driving heavy goods vehicle, while relying upon the driving licence, which came on record as Mark-A, which was produced by the appellant/owner of the offending vehicle. In fact, the Insurance Company has examined Dr. Simarjit Singh Bawa, Inspector, as RW-1, who had got the driving licence verified and proved his report as Ex.RX. Besides the same, Insurance Company has also examined the Clerk from the office of D.T.O., Amritsar as RW-2, who proved

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the entry of register as RW2/A, on the basis whereof, it was concluded that Ruldu Ram was not having a valid driving licence for driving heavy goods vehicle.

Now, the report which is coming on record as Annexure P-5, relating to which the additional evidence is intended to be filed, reveals about Ruldu Ram to be having a driving licence for driving '*Heavy Transport Vehicle*' for a period from 15.07.2008 till 01.09.2014, which also covers the date of accident, which is 07.07.2010.

Also, during the pendency of the present FAO, learned counsel for the Insurance Company had brought on record the information obtained under Right to Information Act, which is contrary to the recitals of the report, intended to be placed on record, at the behest of the appellant, by way of additional evidence.

In the given circumstances, to reach the just decision of the case, further evidence is required to be led by the parties to the lis. As such, the application for leading additional evidence is allowed. Even, learned counsel for the appellant makes a submission that if Issue No.5 is decided afresh, he does not press for any other relief in the present appeal. Considering the same, the impugned Award is hereby set aside qua '*Issue No.5*', *vis-a-vis* the finding of the legality and validity of the driving licence of Ruldu Ram and the case is remanded to the Tribunal concerned. The parties are directed to make appearance before the successor Tribunal on 18.09.2023. On appearance of the parties, the concerned Tribunal shall provide two opportunities to each party, to

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lead evidence qua the aforesaid issue and thereafter, decide the said issue afresh, qua the validity of the driving licence of Ruldu Ram.

In view of the aforesaid, the dispute, as such, survives only with regard to recovery rights of the Insurance Company. In the light of the same, the Award amount, if not disbursed to respondent No.3/claimant, be disbursed, in accordance with law.

Accordingly, the instant revision petition stands disposed of.

In view of disposal of the revision petition, pending applications, also stand disposed of.

25.08.2023

Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No