

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-1488 of 2007

Date of Decision: November 07, 2024

Oriental Insurance Co. Ltd

.....Appellant

Vs.

Raj Bala and ors

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Ram Avtar, Advocate, for the appellant.

Mr. Paul S. Saini, Advocate, for respondent No. 8.

SUDEEPTI SHARMA J. (ORAL)

1. Challenge in the present appeal is to the award dated 07.02.2007 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal'), whereby, the appellant-Insurance Company, driver-respondent No. 6 and owner-respondent No. 7 were fastened with the liability jointly and severally, to pay the compensation to the claimants along with interest @ 7.5% per annum.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that on 12.06.2005, Dasrath was travelling from Gohana to Rohtak upon scooter bearing registration No. HR-12-A/9922. When he reached ahead of Makrauli turning, his scooter was hit by a trolly bearing registration No. HR-38-D/8739 driven by respondent No. 1. As a result of which, Dasrath died due to the injuries suffered by him in the accident.

3. Upon notice of the claim petition, respondent Nos. 1, 2 and 4 (appellant, respondent No. 6 and 7 herein) appeared and denied the factum of



4. From the pleadings of the parties, the Tribunal framed the following issues:-

- “1. Whether accident in question took place due to rash and negligent driving of Tralla No. HR-38-D/8739 by respondent No. 1, as alleged in the petition? OPP*
- 2. If issue No. 1 is proved whether Dasrath sustained injuries in the accident in question and died due to those injuries, as alleged in the petition.*
- 3. Whether the petitioners are LRs of the deceased Dasrath and are entitled for compensation, if so to what amount and from whom? OPP*
- 4. Whether respondent No.1 has no valid and effective driving licence to drive the offending vehicle as alleged by insurers? OPR3-4*
- 5. Whether insured contravened the terms and conditions of the insurance policy as alleged by insurer? OPR-3.*
- 6. Relief.”*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the liability to pay compensation was fastened upon the appellant, driver-respondent No.6, owner-respondent No. 7. Hence the appellant filed the present appeal on the ground that the award has wrongly been passed by fixing the liability upon the appellant-Insurance Company, driver-respondent No. 6 and owner-respondent No. 7 to pay the compensation to the claimants.



SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the appellant has vehemently argued that the learned Tribunal has erred in law in fixing the liability upon the appellant-Insurance Company, driver-respondent No. 6 and owner-respondent No. 7 jointly and severally, as the driving licence of the driver of the offending vehicle was found to be fake by the police and therefore, the appellant should have been granted the recovery rights by the Tribunal.

7. Per contra, learned counsel for respondent No. 8 has vehemently argued that the award has rightly been passed and the amount of compensation as assessed by the learned Tribunal has rightly been granted.

7. I have heard learned counsel for the appellant and perused the whole records of the case.

8. Before proceeding further, it is relevant to reproduce the relevant portion of the award, which reads as under:-

“13 Learned counsel for respondent No. 4/insurer argued that original driving licence of respondent No. 1 was recovered by police after accident and was found to be fake. Learned counsel alleged that respondent No. 1 produced another driving licence during trial. Relying upon Javer Chand Vs. Pukhraj Surana, AIR 1961 Supreme Court 1655, Rakesh Kumar Vs. Rajastjan State Transport Corporation & Ors. 1999 (3) L. J. R. 271, Ram Singh Vs. Amar Singh, 2001(2) L.J.R. 399 and National Insurance Co. Ltd. Vs. Nant Ram and others, 2005 ACJ 1408, learned counsel pleaded that respondent No. 1 could not have retained two driving licences and insurer was liable to recover compensation from the insured owner.



14. On the other hand, learned counsel for respondents No. 1 and 2 denied that police recovered any driving licence from respondent no. 1 after the accident. Learned counsel alleged that police falsely planted a fake driving licence upon respondent No. 1 to implicate him. Learned counsel pleaded that respondent no. 1 had only one driving licence which he produced before the tribunal during evidence.

15. Allegations of respondent no. 4 against respondent No. 1 could be proved only if respondent No. 4 could prove by cogent evidence that police really recovered a driving licence from respondent No. 1. The mere fact that police had shown the recovery of a driving licence from respondent No. 1 in police challan does not prove above said fact conclusively. Respondent No. 4 failed to adduce any cogent evidence to show the recovery of any licence by police from respondent No. 1. Accordingly, in view of law laid down by Hon'ble High Court of Punjab & Haryana in United India Insurance Co. Ltd. Vs. Raj Rani etc. 1998, ACJ 175, respondent No. 4 cannot escape its liability.

9. A perusal of the above shows that the learned Tribunal has rightly held that allegations of respondent No. 4 (appellant herein) against driver/respondent No. 1 (respondent No. 6 herein) could be proved only by cogent evidence that the police really recovered a driving licence of driver/respondent No. 1 (respondent No. 6 herein). It further held that the mere fact that the police shown the recovery of a driving licence from driver/respondent No. 1 (respondent No. 6 herein) in police challan does not prove the said fact conclusively. The respondent No. 4 (appellant herein) failed to adduce any cogent evidence to show the recovery of any licence by police from driver/respondent No. 1 (respondent No. 6 herein).



Therefore, respondent No. 4 (appellant herein) cannot escape from its liability to pay the compensation to the claimants.

10. In view of the above, I do not find any merit in the present appeal and the same is dismissed being devoid of any merit.

11. Pending applications, if any, also stand disposed of.

November 07, 2024

G Arora

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes