

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****292****FAO-4815-2016 (O&M)****Date of Decision : 03.12.2024**

New India Assurance Company Ltd.

....Appellant

VERSUS

Karnailo Devi and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajneesh Malhotra, Advocate for the appellant.

None for respondent Nos.1 to 9.

ALKA SARIN, J. (Oral)

1. Present appeal has been filed by the Insurance Company challenging the award dated 06.05.2016 passed by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as the 'Tribunal').

2. The only challenge in the present appeal is to the extent that recovery rights ought to have been given to the Insurance Company. Vide order dated 02.09.2016 the amount was directed to be disbursed to the claimants. Respondent No.8 i.e. driver of the offending motorcycle bearing registration No.HR-07-G-2152, namely, Gulab Singh did not appear before this Court despite service. Respondent No.9 – Karam Singh – owner of the offending motorcycle bearing registration No.HR-07-G-2152 refused to accept notice and hence affixation was made.

3. The argument raised by learned counsel for the appellant-Insurance Company is that Gulab Singh while stepping into the witness-box as PW2 had stated that he did not possess any driving licence. It is further

the contention that in the absence of any driving licence, the Tribunal ought to have granted recovery rights to the Insurance Company.

4. Heard.

5. In the present case, the rider of the offending motorcycle, namely, Gulab Singh, has chosen not to appear before this Court despite service. Gulab Singh, besides being respondent in the claim petition being MACP-72-2013 filed by Karnailo Devi and others, also filed a claim petition being MACP-99-2013 on his own behalf qua the injuries received by him, which was dismissed. While stepping into the witness-box as PW-2 in MACP-72-2013 Gulab Singh in his cross-examination conducted by Sh. R.K. Sachdeva, Advocate for respondent No.2 therein had candidly admitted that he did not possess any driving licence. In view of the clear admission and in view of the fact that no driving licence was produced on the record, the appellant-Insurance Company would be entitled to recovery rights.

6. In view of the above, present appeal is disposed off. The appellant-Insurance Company is granted recovery rights against the driver and owner. Pending applications, if any, also stand disposed off.

03.12.2024
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO