211 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2202-2002 (O&M)
Date of Decision: 31.10.2025

THE ORIENTAL INSURANCE CO. LTD.

....Appellant

Versus

BALBIR KAUR AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Ravinder Arora, Advocate
for the appellant.

<u>Parmod Goyal, J. (Oral)</u>

Present appeal has been preferred by Insurance Company being aggrieved by fixation of liability to pay compensation vide award dated 29.10.2001, passed by learned Motor Accident Claims Tribunal, Mansa (hereinafter referred as ‘Tribunal’).

2. Learned counsel for appellant has fairly submitted that insurance company is mainly aggrieved by finding of learned Tribunal on issue No.4 wherein the contention raised by insurance company that driving licence of offending driver i.e. respondent No.1 was not valid, was rejected by learned Tribunal and insurance company has been held liable to indemnify respondent No.2/owner of offending vehicle, as same was insured with appellant/insurance company.

3. Learned counsel for appellant has argued that learned Tribunal has erred in not taking into consideration evidence of surveyor wherein he has duly asserted that driving licence of respondent No.1 namely Zulfi Ram was not valid on the date of accident. It is asserted that evidence led by insurance company in the shape of Mark A application moved by Yashpal Singh Tomar to D.M. OIC Ltd. D.O. Gwalior and Ex.R-1 verification by Licensing Authority, Gwalior has not been taken into consideration. However, learned Tribunal has not relied upon documents tendered in evidence by the insurance company as they were not proved in accordance with law and the author of Ex.R-1/records of Licensing Authority were not produced before the learned Tribunal.

4. I do not find any error in the approach of learned Tribunal. The onus of issue No.4 was upon the insurance company. It was insurance company to show that driving licence placed on record by respondent No.1 was defective and was not valid. It was duty of insurance company to examine some official from Licensing Authority along with record to prove that license was either fake or was not renewed as being argued by learned counsel for the appellant, however, no such evidence has been led. The author of Mark A has not been examined, therefore, even Mark A cannot be read in evidence as not proved in accordance with provisions of Evidence Act 1972. The surveyor who prepared Mark-A was not examined to prove his conclusion on the basis of Ex.R-1. In absence of any evidence, detailed findings contained in the impugned award from Para No.22 to 26 cannot be faulted with. No records of licencing authority was produced. Ex.R-1 was

not proved in accordance with law. Mere tendering of Ex.R-1 in evidence in absence of its proof as per law cannot discharge burden of proof cast upon insurance company. Claimant/appellant has failed to discharge onus cast upon it and, therefore, it is respondent/insurance company who shall fail. No fault with the impugned award can be found and the same is upheld. Appeal is without any merit, hence is dismissed.

(PARMOD GOYAL)
31.10.2025 **JUDGE**
chiranjeev

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No