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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-459-1999 (O&M)
Date of decision: 04.02.2025

National Insurance Company Limited

...Appellant

Versus

Rani Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Deepak Suri, Advocate and
Mr. Brij Sharma, Advocate for the appellant.

Mr. Bhag Singh, Advocate for the respondents.

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VIKAS BAHL, J. (ORAL)

1. Challenge in the present appeal is to the award dated 18.11.1998 passed by the Motor Accident Claims Tribunal, Ambala (hereinafter to be referred as "the Tribunal") vide which the claim petition filed by the claimants under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation, had been allowed and an amount of Rs.3 lacs had been awarded in favour of the claimants as compensation along with interest at the rate of 12% per annum from the date of petition till the date of payment.

2. Learned counsel for the appellant-Insurance Company has submitted that the appellant is aggrieved with the finding on issue No.3, inasmuch as, in the present case, RW1 Registering and Licensing Clerk,

who had been examined by the Insurance Company had stated that no licence was issued by the Licencing Authority, Solan in favour of Baldev Singh who was the driver and thus, in view of the same, the Insurance Company could not have been made liable. It is submitted that solely on the said point, the finding on the said issue deserves to be set aside and the present appellant-Insurance Company deserves to be absolved of its liability.

3. Learned counsel appearing on behalf of the respondents-claimants, on the other hand, has opposed the present appeal and has brought to the notice of this Court that in pursuance of the order dated 07.02.2002, amount of compensation had been released to the claimants and the impugned award had been acted upon. It is submitted that in the present case, the evidence of Jasbir Singh-RW2, report of the Licensing Authority, Patiala Ex.R3, evidence of Harinder Singh-RW3 with respect to the renewal of the driving licence as well as other evidence on record clearly establishes that the finding of the Tribunal in para 11 with respect to issue No.3 is absolutely in accordance with law and deserves to be upheld. In support of his arguments, he has relied upon the judgment of the Hon'ble Supreme Court in the case of ***United India Insurance Company Limited Vs. Lehru and others***, reported as ***(2003) 3 Supreme Court Cases 338***.

4. This Court has heard learned counsel for the parties and has perused the paper book.

5. The claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed on behalf of four claimants i.e., widow, two sons and daughter of Pala Singh who had died in the accident that had taken place on

18.05.1996 with the offending vehicle i.e., tanker/truck bearing registration No.PB-11F-9827, of which Baldev Singh was the driver and M/s Hemkunt Service Station, Sirhind Road, Patiala was the owner and the same was insured with the appellant-Insurance Company.

6. On the basis of the pleadings of the parties, the following issues were framed by the Tribunal:-

> *"1. Whether the accident in question took place due to rash and negligent driving of truck No.PB11F-9827 by respondent No.1 causing the death of Pala Singh, as alleged? OPP.*
>
> *2. If issue No.1 is proved, whether the claimants are entitled to compensation, if so, to what amount and from whom?OPP.*
>
> *3. Whether the tanker in question was being driven without valid driving licence, registration certificate and route permit at the time of alleged accident and in violation of terms and conditions of insurance policy, as alleged? OPR3.*
>
> *4. Relief."*

7. Under issue No.1, it was held by the Tribunal that the accident in question had taken place due to rash and negligent driving of the driver of tanker/truck bearing registration No.PB-11F-9827 thus, causing injuries to Pala Singh who died on account of the said accident. The said finding has not been challenged before this Court. Under Issue Nos.2 and 3, the Tribunal had observed that on the basis of evidences and documents on record, the Insurance Company is also liable and the claimants were held entitled to compensation to the tune of Rs.3 lacs along with interest at the rate of 12% per annum. It is the finding on the said issues, more so with respect to issue No.3, which is under challenge before this Court.

8. Before considering the relevant evidence with respect to

argument raised by learned counsel for the appellant-Insurance Company, it would be relevant to refer to the judgment of the Hon'ble Supreme Court in the case of ***United India Insurance Company Limited*** (Supra). In the said case, it was observed by the Hon'ble Supreme Court that in case the driver produces a driving licence to the owner which on the face of it looks genuine, then, the owner is not expected to find out whether the licence has actually been issued by a competent authority or not and in case the owner finds that the driver is competent to drive the vehicle, then he will hire the said driver as it is not possible for the said owner to make enquiries from the RTOs, which are spread all over the country, to see as to whether the driving licence issued to the said driver is valid or not. It was further observed that even in case it is found that the licence was fake, then, also the Insurance Company would continue to remain liable unless the Insurance Company is able to prove that the owner/insured was aware of the fact that the licence was fake. Para 20 of the said judgment is reproduced hereinbelow:-

> *"20. When an owner is hiring a driver he will therefore have to check whether the driver has a driving licence.* ***If the driver produces a driving licence which on the face of it looks genuine, the owner is not expected to find out whether the licence has in fact been issued by a competent authority or not.*** *The owner would then take the test of the driver. If he finds that the driver is competent to drive the vehicle, he will hire the driver.* ***We find it rather strange that insurance companies expect owners to make enquiries with RTOs, which are spread all over the country, whether the driving licence shown to them is valid or not.*** *Thus where the owner*

has satisfied himself that the driver has a licence and is driving competently there would be no breach of Section 149(2)(a)(ii). ***The insurance company would not then be absolved of liability. If it ultimately turns out that the licence was fake, the insurance company would continue to remain liable unless they prove that the owner/insured was aware or had noticed that the licence was fake and still permitted that person to drive.*** *More importantly, even in such a case the insurance company would remain liable to the innocent third party, but it may be able to recover from the insured. This is the law which has been laid down in Skandia, Sohan Lal Passi and Kamla cases. We are in full agreement with the views expressed therein and see no reason to take a different view."*

9. In the present case, it had been observed by the Tribunal that Jasbir Singh, who was the owner of the truck, had appeared as RW2 and had proved the copy of Registration Certificate of the truck in question as Ex.R1. It was further observed that he had admitted that it was Baldev Singh who was the driver of the truck on the date of accident and that at the time of giving employment to the said Baldev Singh, he had seen his driving licence and had verified the same and that the driving licence of Baldev Singh was renewed from the Licencing Authority, Patiala for the period starting from 19.02.1996 and the copy of the driving licence Ex.R2 was proved by the said witness. The said witness, RW2 had further testified that the driving licence was verified from the Licencing Authority, Patiala and the verification report in the said regard was also duly exhibited as Ex.R3. It was further stated by the said RW2 that Baldev Singh was a professional driver and used to ply heavy vehicles and that the vehicle in question was insured on the date of accident.

10. In addition to the evidence of the abovesaid RW2, it was further noted by the Tribunal that even Harinder Singh, Junior Assistant, District Transport Office, Patiala had also been examined as RW3, who had brought the summoned record and the driving licence in the name of Baldev Singh, which was stated to be renewed on 19.02.1996 and had even proved the Verification report as Ex.R3. It was observed by the Tribunal that there was no evidence that the driving licence in question was not renewed by the Licencing Authority, Patiala. The accident had taken place on 18.05.1996, during the period of renewal of the driving licence, which was from 19.02.1996 upto February, 1999. In the said circumstances, it was observed that it could not be said that the driving licence was fake. The documents and evidence and the finding on the said aspect, as recorded by the Tribunal, have not been shown to be perverse or against the record. There is no evidence led on behalf of the Insurance Company, much less highlighted before this Court, to show that there was any evidence to prove that the owner/insured was aware of the fact that the original licence in favour of the driver was questionable/fake. In the said circumstances, the finding of the Tribunal on the said issue is in consonance with the law laid down by the Hon'ble Supreme Court in the case of ***United India Insurance Company Limited*** (Supra) and deserves to be upheld and argument raised on behalf of the appellant deserves to be rejected.

11. Additionally, it would be relevant to mention that, as is apparent from order dated 07.02.2002, before admitting the matter, the interim order earlier passed in favour of the present appellant was withdrawn. It was further ordered that the amount of compensation shall be

paid to the claimants. Learned counsel for the claimants has fairly stated that the said amount has been paid to the claimants and thus, impugned award has been duly acted upon.

12. Keeping in view the abovesaid facts and circumstances, the impugned award dated 18.11.1998 is in accordance with law and deserves to be upheld and the present appeal being meritless, deserves to be dismissed and is accordingly dismissed.

13. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

04.02.2025 **(VIKAS BAHL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No