



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4798-2009 (O&M)

Date of Decision : 04.11.2025

Vishwa Mittar and Another

... Appellants

Versus

Rajni Saini and Others

... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sanjay Jain, Advocate for the appellants.

Mr. Abhimanyu Kalsy, Advocate for respondent No.5.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the owner and driver of the tractor bearing registration No.HR-04-B-3128 (hereinafter referred to as the 'offending vehicle') aggrieved by the award dated 27.05.2009 passed by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as the 'Tribunal') to the extent that the recovery rights have been granted to the Insurance Company.

2. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

3. The only argument raised by learned counsel for the appellants is that appellant No.2 had a valid and effective driving licence on the date of the accident i.e. 12.01.2008 and a slip issued by the Registering Authority, Naraingarh qua deposit of the driving licence for renewal was tendered as Ex.RW/3. It is further the contention that the onus of issue No.5 was upon the

Insurance Company and it failed to prove that the driving licence was not valid and that the same had not been sent for renewal. It has further been pointed out by learned counsel for the appellants that in paragraph No.33 of the award the Tribunal, after holding that there was nothing on the record that the licence was not effective and valid, goes on to grant recovery rights to the Insurance Company.

4. *Per contra* learned counsel for respondent No.5-Insurance Company would contend that inadvertently the words 'not effective and valid' were written by the Tribunal and the line actually was that 'it does not show that on the date of accident it was effective and valid' and that the word 'not' was inadvertently written.

5. I have heard learned counsel for the parties.

6. In the present case the onus of issue No.5 was cast upon the Insurance Company. The appellants had tendered in evidence a slip as Ex.RW/3, which had been issued by the Registering Authority, Naraingarh qua deposit of the driving licence for renewal. No evidence was led by the Insurance Company to disprove the same. Infact, no evidence was led at all by the Insurance Company to show that the said driving licence was not effective and valid on the date of the accident. The argument of learned counsel for respondent No.5-Insurance Company that the word 'not' was inadvertently written cannot be accepted as even on a reading of the entire paragraph it appears that after holding that the licence was effective and valid the Tribunal has gone to award recovery rights to the Insurance Company, which is not sustainable in law.

7. It is to be noted that the appeal being FAO-4203-2009 filed by the claimants for enhancement of compensation has already been allowed by

this Court vide order dated 23.01.2024.

8. In view of the above discussion, the award passed by the Tribunal is modified to the extent that no recovery rights are granted to the Insurance Company and the present appeal stands allowed accordingly. The statutory amount, if not remitted to the Tribunal, be refunded to the appellants. Pending applications, if any, also stand disposed off.

04.11.2025
jk

(ALKA SARIN)
JUDGE

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