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**(2009) 05 DEL CK 0309**  
**In the Delhi High Court**  
**Case No : FAO No. 374 of 2000**

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|------------------------|----|------------|
| Amar Pal Singh         |    | APPELLANT  |
|                        | Vs |            |
| Jawahar Lal and Others |    | RESPONDENT |

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**Date of Decision :** 29-05-2009

**Acts Referred:**

**Citation :** (2009) 05 DEL CK 0309

**Hon'ble Judges :** J.R. Midha, J

**Bench :** Single Bench

**Advocate :** Naresh K. Thanai, for the Appellant; Manjusha Wadhwa, for R-3, for the Respondent

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## **Judgement**

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby the appellant was directed to pay Rs. 22,000/- to claimant/respondent No. 1.

2. The accident dated 22nd October, 1993 resulted in the injuries to the claimant who filed the claim petition before the learned Tribunal.

3. The learned Tribunal passed an award of Rs. 22,000/- in favour of the claimant and against the appellant, who is the owner of the offending vehicle and respondent No. 2, who is the driver of the offending vehicle. Respondent No. 3 - National Insurance Co. Ltd. was exonerated from any liability on the ground that the driver of the offending vehicle was not holding a valid driving licence.

4. The Learned Counsel for the appellant submits that the driver of the offending vehicle was holding a valid driving licence. Learned Counsel for the appellant further submits that the accident in question resulted in death of Rajesh Kumar whose legal representatives filed a separate claim petition which was allowed against the Insurance Company holding that the driver was holding a valid driving licence. It is further submitted that the Insurance Company has accepted the said award and has made the payment of the award amount to the claimant in that case.

5. Considering the aforesaid submissions, Learned Counsel for respondent No. 3 was directed to produce the claim file of the case titled Roop Kumari v. Rajpal decided on 13th December, 2004 but despite the number of opportunities granted, respondent No. 3 has not been able to produce the file which is reported to be untraceable. However, it is not disputed by Learned Counsel for respondent No. 3 that the award passed in the connected case titled Roop Kumar v. Rajpal decided on 23rd November, 1993 was not challenged by the appellant and the award was accepted and the claim has been paid to the claimant in the connected case.

6. The file of the connected case titled Roop Kumar v. Rajpal has been requisitioned. The award dated 23rd November, 1993 has been passed against respondent No. 3 holding that the driver of the offending vehicle was holding a valid driving licence. Paras 21 to 23 of the award are reproduced hereunder:

21. R - 1 has examined himself as R1W3. He deposed that he had been driving heavy vehicle since 05.06.70. Initially his licence was issued by the Meerut Transport Authority. In the year 1992 he got renewed his licence from Delhi Transport Authority. At the time of accident he was heaving a licence which was valid up to 17.07.94. Thereafter, the licence was renewed upto 23.08.97. The photocopy of the licence is Ex.RW-3/A. Later on he got renewed his licence from Ghaziabad Transport Authority and his latest driving licence is valid upto 06.03.2004 from Ghaziabad Transport Authority, the photocopy of which is Ex.RW-3/B. He is an expert in driving the heavy vehicle.

22. R-1 has also examined Sh. Sudhir Kumar Saxena as R1W-5. He is Senior Clerk, RTO, Meerut. He has produced the record of DL of R - 1 and deposed that as per the record licence No. R5230 was issued on 05.06.70 for HTV to Rajpal and the same was valid upto 29.04.85. He has also deposed that certificate Ex. R1W5/A has been issued by his office and it bears the signature of Surender Singh, Regional Inspector, TRO, Meerut whose signature he can identify. He has also deposed that certificate Ex.R1W5/A is correct as per record. Copy of the office record is Ex.R1W5/B. In cross-examination by Id. counsel for R - 3 this witness has deposed that he has deposed only as per record available with him.

23. I have gone through the licence of R - 1 Ex.RW-3/A. A perusal of which shows that the licence was valid upto 23.08.97. The copy of driving licence, which was later on renewed from Ghaziabad Transport Authority, which is Ex.RW-3/B also shows that R - 1 was having a licence which was valid upto 06.03.2004. The testimony of RW Raj Pal is corroborated with the testimony of R1W5, because this witness has categorically stated that licence No. R-5230 was issued on 05.06.70 to Raj Pal HTV. The certificate Ex.R1W5/A issued from the Licencing Authority, Motor Vehicle Department, Meerut has been duly proved by R1W5. From the perusal of record Ex.R1W5/B, produced by R1W5, it becomes clear that driving licence No. R-5230 was issued to R-1 on 05.06.70 and the same was valid upto 29.04.85. In view of the material on record, it becomes clear that on the day of accident R - 1 was holding a valid and effective driving

licence.

7. Noting that respondent No. 3 has accepted the award passed in connected case in which it was held that the driver was holding a valid driving licence, this appeal is allowed and the impugned order is set aside to the extent that the appellant has been held liable to pay the award amount.

8. The Learned Counsel for the appellant submits that he has deposited the entire award amount along with interest with the learned Tribunal in terms of the order dated 11th March, 2002 passed by this Court. In view of the payment of the entire award amount along with interest having been made by the appellant to the claimant, respondent No. 3 is directed to reimburse the amount paid by the appellant to the claimant. The appellant has deposited a sum of Rs. 43,500/- vide cheque No. 264707 dated 30th March, 2002 with the learned Tribunal in execution proceedings of the award. The liability of respondent No. 3 is, therefore, determined to be Rs. 43,500/-.

9. Respondent No. 3 is directed to pay a sum of Rs. 43,500/- to the appellant within a period of 60 days. If the payment is not made within 60 days, the amount shall carry interest @7.5% per annum.

10. Copy of this order be given "Dasti" to Learned Counsel for the parties under signatures of Court Master.