

(2015) 03 P&H CK 0213
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 689 of 2013 (O and M)

ICICI Lombard General Insurance Company

APPELLANT

Vs

Ria and Others

RESPONDENT

Date of Decision : 20-03-2015

Acts Referred:

Motor Vehicles Act, 1988 — Section 14, 15
Penal Code, 1860 (IPC) — Section 279, 304-A

Citation : (2015) 03 P&H CK 0213

Hon'ble Judges : Kuldip Singh, J.

Bench : Single Bench

Advocate : Rajbir Singh, for the Appellant; Ishan Singh Cooner, Advocate for J.S. Cooner, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Kuldip Singh, J.—Appellant Insurance Company has challenged the award dated 15.10.2010, passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (in short, "the Tribunal").

2. The facts of the case are that Khusia @ Khushi Ram, father of the claimants, while riding scooter bearing registration No. PB-26-1600, was going to Gurudwara Sahib on 27.12.2009 after dropping his sister Amarjit Kaur at Bus Stand, Bassi Pathana. He was going on the left side of the road at a moderate speed. At about 5.10 p.m., when he was at a distance of 50 yards from railway crossing, near Gurudwara Fatehgarh Sahib, a Tata truck bearing registration No. PB-23-9811 came from behind in a rash and negligent manner and struck against the rear portion of the scooter of the deceased. As a result of the accident, Khusia @ Khushi Ram fell down and was run over by the truck. The truck driver stopped the truck and on an inquiry, he disclosed his name as Kirpal Singh. However, on seeing the crowd gathering at the spot, he slipped away. Injured died on way to the hospital. FIR No. 219 dated 27.12.2009 under Sections 279 and 304-A IPC was registered at P.S. Fatehgarh Sahib.

3. It is stated that the deceased, aged about 27 years, truck driver by profession, was employed with Amarjit Singh son of Gurdial Singh resident of Kotla (Dadheri) on his truck bearing registration No. HR-37-B-5597, on a monthly salary of Rs. 8000/-. Wife of Khusia @ Khushi Ram had already expired in November 2009. Suffice it to say that the claim petition was contested by the respondents. The Tribunal held that the accident took place due to rash and negligent driving of truck by respondent No. 1 (respondent No. 3 herein). The Tribunal awarded Rs. 4,70,000/- in favour of claimant Nos. 1 and 2 (respondent Nos. 1 and 2 herein). Respondents were held jointly and severally liable to make the payment along with interest @ 7.5% per annum. At the time of accident, the vehicle was insured with the present appellant (respondent No. 3 before the Tribunal).

4. I have heard learned counsel for the parties and have also carefully gone through the file.

5. Learned counsel for the appellant has vehemently argued that in this case the licence of the truck driver was not in operation on the date of accident. It is stated that in this case the accident took place on 27.12.2009. Evidence led before the Tribunal shows that on that date, licence had already expired and that it was later on got renewed from 30.12.2009 to 29.12.2012. The learned counsel has referred to the testimony of Jagtar Singh, Clerk DTO Office, Fatehgarh Sahib (RW1), who brought the record pertaining to renewal of licence of Kipal Singh, which is recorded to be earlier valid from 12.12.2007 to 7.11.2009 and stated that it was renewed from 30.12.2009 to 29.12.2012. It has been argued that even fee was paid after the date of accident. However, the argument did not find favour with the Tribunal, which took the view that licence was renewed w.e.f. 11.12.2009. The entire process for renewal of driving licence takes a period of one week to ten days. As per driving licence, the date of the issuance of first driving licence was 12.12.2007. The licence would have been expired on 11.12.2009 though it is recorded to have been expired on 7.11.2009. It was held that since the licence was issued on 12.12.2007, it would be valid till 11.12.2009 and thereafter, the driving licence was got renewed within 30 days under Section 15 of the Motor Vehicles Act, 1988 (in short, "the Act"). It would date back to the date of expiry of the original licence. The learned counsel has also referred to the entry in the register of the DTO (Ex.RW1/A), wherein it is recorded that the licence of the driver was applied on 8.11.2007 and that it was issued from 12.12.2007 to 7.11.2009. As per Ex.RW1/B, the renewal was valid from 30.12.2009 to 29.12.2012. A copy of the renewal licence is Ex.R2, wherein though the date of issuance of new licence 12.12.2007 is given but the date of expiry is not mentioned.

6. Now the question would be whether the licence could be valid for less than two years i.e. till 12.12.2007 to 7.12.2009?

7. Section 14 of the Act deals with the issuance of the driving licence. Admittedly, the present driving licence is for heavy vehicles covered under clause

14(2)(a) of the Act. Section 14 of the Act provides as under:-

14. Currency of licences to drive motor vehicles. - (1) A learner's licence issued under this Act shall, subject to the other provisions of this Act, be effective for a period of six months from the date of issue of the licence.

(2) A driving licence issued or renewed under this Act shall -

(a) in the case of a licence to drive a transport vehicle, be effective for a period of three years :

Provided that in the case of licence to drive a transport vehicle carrying goods of dangerous or hazardous nature be effective for a period of one year and renewal thereof shall be subject to the condition that the driver undergoes one day refresher course of the prescribed syllabus; and (b) in the case of any other licence -

(i) if the person obtaining the licence, either originally or on renewal thereof, has not attained the age of fifty years on the date of issue or, as the case may be, renewal thereof -

(A) be effective for a period of twenty years from the date of such issue or renewal; or

(B) until the date on which such person attains the age of fifty years, whichever is earlier;

(ii) if the person referred to in sub-clause (i) has attained the age of fifty years on the date of issue or, as the case may be, renewal thereof, be effective, on payment of such fee as may be prescribed, for a period of five years from the date of such issue or renewal :

Provided that every driving licence shall, notwithstanding its expiry under this sub-section, continue to be effective for a period of thirty days from such expiry.

8. It goes to show that in case a transport vehicle, the licence will be issued or renewed for a period of three years. The licence was issued on 12.12.2007 and even if it is for two years, it has to be valid till 11.12.2009. The Motor Vehicle Authority could not restrict the period to less than the specified period in the Act. Therefore, the licence is deemed to be valid till 11.12.2009. The renewal was applied within 30 days. Therefore, the Tribunal rightly held that it will date back to the date of expiry of the first licence. Therefore, there was a valid driving licence with the driver at the time of accident.

9. Learned counsel for the appellant has relied upon the authorities in *Ishwar Chandra and Others Vs. The Oriental Insurance Co. Ltd. and Others*, and in *New India Assurance Co. Ltd. Vs. Suresh Chandra Aggarwal*, , which are regarding the facts different from the present case. Therefore, these authorities are not attracted in the present case.

10. In view of foregoing discussion, I find no force in the present appeal. The same is accordingly dismissed.