

(2006) 02 P&H CK 0001
In the Punjab And Haryana At Chandigarh

National Insurance Company

APPELLANT

Vs

Harbans Singh and Others

RESPONDENT

Date of Decision : 15-02-2006

Acts Referred:

Citation : (2006) 2 ACC 838

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Judgement

Viney Mittal, J.—The National Insurance Company has approached this Court through the present appeal. The learned Motor Accident Claims Tribunal, (for short "the Tribunal") has accepted the claim petition filed by the insured-claimant and awarded an amount of Rs. 52,000 as compensation along with interest at the rate of 9% per annum. The Tribunal has also found that since the licence possessed by the driver of the offending vehicle, namely, Ram Diya was fake, therefore, the Insurance Company shall have a right of recovery from the insured.

2. The Hon'ble Supreme Court of India in the case of National Insurance Co. Ltd. Vs. Swaran Singh and Others, has laid down that mere absence, fake or invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. In view of the law laid down by the Apex Court in Swaran Singh's case (supra), there is no merit in the appeal filed by the Insurance Company. The Insurance Company is held liable jointly and severally along with driver and owner of the offending bus. Therefore, I do not find any infirmity in the award of the learned Tribunal. Even if the licence in question was fake still the Insurance Company is liable to pay the amount of compensation to the claimants. The right of recovery has already been provided to the Insurance Company.

3. The claimant has also filed Cross-objections in the present appeal, claiming enhancement of compensation.

4. After hearing the learned Counsel for the claimants, I do not find that there is any scope for further enhancement. The learned Tribunal has taken into consideration the entire evidence led by him and on the basis of the aforesaid assessment of the evidence, has awarded compensation on account of pain and sufferings and the medical expenses incurred by the claimant. Compensation has also been awarded for special diet and loss of income etc. Nothing has been brought to my notice to show that the amount of compensation awarded by the Tribunal is inadequate. There is no scope for further enhancement.

5. As a result of the aforesaid discussion, the present appeal as well as the cross-objections are devoid of any merit and the same are dismissed.