

(2006) 12 P&H CK 0047
In the Punjab And Haryana At Chandigarh

National Insurance Company Ltd.

APPELLANT

Vs

Smt. Dharmi Devi and Others

RESPONDENT

Date of Decision : 06-12-2006

Acts Referred:

Citation : (2007) 146 PLR 752 : (2007) 2 RCR(Civil) 192

Hon'ble Judges : S.D. Anand, J

Bench : Single Bench

Judgement

S.D. Anand, J.—Cumulatively taken, these three F.A.O. (Nos. 1609, 1671 and 1672 of 1993), a litigative endeavour of the Insurance Company aimed at obtaining exoneration from liability to pay the varying amounts of compensation to the claimants-respondents, represent an unenviable spectacle of delay which has apparently crept into the system of dispensation of justice. No sermons these. Merely an indication of exasperating helplessness - which is what it is. No blames meant in particular. The fond hope is that all concerned (self-included with conceded answerability) in the mechanism of Administration of Justice ought to wake up to discern the societal accountability as well, in preference to the professional interests which must inevitably pave way for the larger public interest which, obviously, lies in noticeably expeditious disposal.

2. Ram Avtar, Parkash and Ramesh were travelling by Maruti van bearing registration No.DL-2-C-1348, driven by respondent Jit Singh. It came into contact with a stationary truck at the dead of the night at 1.00/1.30 a.m. on 29.11.1991 near Jai Singhpur Khera Barrier. Parkash died instantaneously at the spot itself; while Ramesh and Ram Avtar sustained grievous injuries/ multiple fractures. Ram Aytar ultimately died on 31.12.1991 on account of injuries sustained in the course of the impugned accident. Respondents Mst. Dharmi Devi, Laxmi and Rinku are legal representatives of Ram Avtar. (Dharmi Devi is widow and the other two named are minor female children born to her from the loins of her deceased-husband). Smt. Mayeli and Parbhu Ram are parents of deceased Ram Avtar and Ramesh Kumar is the injured. They had instituted

M.A.C.T. Cases No. 40 of 1994, 49 of 1992 and 50 of 1992 respectively. All these were consolidated on 15.12.1992. The corresponding F.A.Os. filed by the Insurance Company against the impugned award dated 12.3.1992 are (Nos. 1609, 1671 and 1672 of 1993). It may be indicated, on point of fact, that Ghisa Ram and Chameli, parents of deceased Ram Avtar, had also filed M.A.C.T. No. 166 of 1992 which was dismissed by the Tribunal as time barred. (No appeal had been preferred against it). Compensation of Rs. 1,34,000/- was awarded in favour of Mst. Dharmi Devi etc. compensation of Rs. 50,000/- in favour of Maweli and Parbhu and compensation of Rs. 32,000/- was awarded in favour of Ramesh injured. The Tribunal recorded a finding that the impugned accident had been caused by respondent No. 1 by having driven the very vehicle, by which the deceased and also the injured were travelling, rashly and negligently. The claimants were also held entitled to interest @ 12% per annum with effect from the date of filing of the petition till realisation thereof. As between Dharmi Devi and two other claimants and also as between Maweli and Parbhu Ram, the amount was divisible in equal shares inter se. No. 1 fee in each case was assessed as Rs. 500/-. (Though the claim petition filed by Ghisa and Chameli was dismissed as time barred, it was ordered by the Tribunal in the concluding para of the award that, out of the compensation payable to Dharmi Devi and her two daughters, a sum of Rs. 7,000/- shall be disbursed to Mst. Chameli, mother of deceased Ram Avtar under the "no fault liability" clause).

3. The respondents (No. 1 being the driver/registered owner and No. 2 being the Insurer respectively) were held to be jointly and severally liable to pay the amount of compensation.

4. The only point vehemently canvassed on behalf of the Insurance Company is that, for want of proof about the holding of a genuine driving licence by respondent No. 1, no liability for the compensation payable could have been fastened upon the Insurer. In support of the advocated plea, learned Counsel argued that a Local Commissioner appointed by the Tribunal itself held an enquiry and recorded a finding that the driving licence produced by respondent No. 1 was not genuine.

5. The plea is plainly devoid of merit. It may be noticed, at the very outset, that the facts forming the foundation of the plea aforementioned are not borne out by the record. The fact of appointment of the averred Local Commissioner has not been noticed in the impugned award. There were, in all, two respondents before the Tribunal. The driver-cum- registered owner of the offending vehicle had been arrayed as respondent No. 1. The other respondent (No. 2) is the Insurer. Evidence on behalf of the respondent No. 2 was closed on 11.5.1993. No. 1 for respondent No. 1 made a statement on that very date i.e. 11.5.1993 that no evidence has to be adduced in all the consolidated petitions on behalf of that respondent. The plea aforementioned shall stand repelled accordingly. The Insurer cannot, thus, take any advantage in the context.

6. It would be appropriate to notice, in the context, that driving licence Exhibit

PX was tendered into evidence by respondent No. 1 in the course of a statement of his which was recorded without oath on 29.5.1993. The Tribunal recorded an endorsement (in the course of that statement itself) that the original driving licence (Exhibit PX) had been seen and returned. In the Zimini order dated 29.5.1993, the Presiding Officer of the Tribunal noticed a plea challenging the genuineness of that driving licence and recorded the following order which is extracted hereunder for facility of reference.

Respondent Jeet Singh produced photo copy of his driving licence. Original was seen and returned to him. Shri Atul Grover Advocate, No. 1 for respondent No. 2 has pointed out that the driving licence is not genuine and wanted time for verification. He also pointed out that the date given as 8.12.1993 below the signatures of issuing authority creates doubt in genuineness of D/L. But it is apparent that the date 8.12.1993 has been given inadvertently and that on the photograph fixed on the driving licence the date is 8.10.1990 and not 8.12.1993. He has also pointed out other defects.

I have perused the original driving licence. I do not find that the driving licence is a forged one. Other points raised by Shri Grover in this behalf shall be discussed in the award. Arguments heard. For order fixed for 31.5.1993.

7. In view, thus, of the fact that the Presiding Officer of the Tribunal himself recorded a finding that the driving licence produced by RW-1 was not forged and also in view of the fact that the averred report of the local commission has not been substantively proved on the file, this Court has no reasons to agree with the plea advocated on behalf of the appellants with regard to the invalidity of the driving licence aforementioned.

8. No other point was raised.

9. In the light of foregoing discussion, these FAOs are held to be devoid of force. Dismissed.