(2013) 05 P&H CK 0128

In the Punjab And Haryana At Chandigarh

Case No : FAO No. 1646 and 1647 of 1995 (O and M)

New India Assurance Co. Ltd. APPELLANT

Vs

Maha Singh and Others RESPONDENT

Date of Decision : 02-05-2013

Acts Referred:

Citation : (2014) ACJ 881 : (2013) 171 PLR 220

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Sanjay Majithia, for the Appellant; Ajay Jain for Respondent Nos. 3 and 4 in FAO No. 1646 of 1995 and for Respondent Nos. 5 and 6 in FAO No. 1647 of 1995 and Mr. D.S. Nain for Mr. Vijay Kajla for Respondent No. 5 in FAO No. 1646 of 1995 and for Respondents No. 1 to 4 in FAO No. 1647 of 1995, for the Respondent

Final Decision : Dismissed

Judgement

K. Kannan, J.—In both the appeals, the plea by Insurance Company is for exclusion of the liability on the ground that the original issue of license was not genuine although the subsequent renewal was purported to have been done elsewhere which had been proved to be properly done. The Insurance Company relied on investigation report to contend that the original licence have not been issued by the licensing authority i.e. R.T.O Dehradun. The Tribunal relied on the Division Bench decision in National Insurance Co. Ltd. Vs. Sucha Singh and Others, hold that even if original issue of license has not been regular the subsequent would establish the validity of the license. In the appeal challenging the liability the learned counsel would state that the law has since changed with authoritative pronouncement of the Supreme Court in National Insurance Co. Ltd. Vs. Swaran Singh and Others, that even if renewal is genuine, if the original issue was shown to be false, the subsequent renewal must also be taken as not valid. The fundamental position still remains that the burden of proof of violation of terms of policy, namely, the invalidity of the license was still on the Insurance Company and the Insurance Company cannot be heard to contend for such a position, unless it had summoned the original record from the R.T.O Dehradun and elicited details with reference to the copy of license produced before the Tribunal that there had no such issue as the copy bore out. Mere Investigator''s report shall not suffice and it cannot be taken us discharging liability which law casts on the insurance Company.

2. The liability fastened on the Insurance Company, therefore, was justified and there is no scope for interference in the awards passed by the Tribunal.

Both the appeals preferred by the Insurance Company are accordingly dismissed.

