**(2007) 03 P&H CK 0118**

**In the Punjab And Haryana At Chandigarh**

United India Insurance Company Limited APPELLANT

Vs

Shanti Devi and Others RESPONDENT

**Date of Decision :** 30-03-2007

**Acts Referred:**
Motor Vehicles Act, 1988 — Section 149, 15, 19, 20, 21

**Citation :** (2008) ACJ 2228 : (2007) 146 PLR 485 : (2007) 3 RCR(Civil) 356

**Hon'ble Judges :** Hemant Gupta, J

**Bench :** Single Bench

**Final Decision :** Dismissed

## Judgement

Hemant Gupta, J.—The present appeal is against the award rendered by the Motor Accident Claims Tribunal (hereinafter to be referred as "the Tribunal") on 3.8.7.006 whereby a sum of Rs. 1,80,000/- was found to be payable by the Insurance Company in terms of insurance policy Exhibit D-6.

2. The sole ground to challenge the award is that on the date of accident i.e. 1.2.2004, the driver was not possessed of a valid driving licence though the driving licence was renewed subsequently on 17.3.2004 till 16.3.2007.

3. Undisputedly, the driver possessed a valid driving licence issued on 27.7.1982. Its validity was extended from 21.12.1998 to 20.12.2001 and then from 17.3.2004 to 16.3.2007.

4. The question which arises is that in the absence of renewal, whether the insurance company can be made liable for the payment of compensation. The issue is not res integra. Hon''ble Supreme Court in National Insurance Co. Ltd. Vs. Swaran Singh and Others, , has considered the situation where a driver was holding a licence but validity whereof has expired. It was held, that Section 15 of the Motor Vehicles Act, 1988 (hereinafter to be referred as "the Act") does not empower the Authority under the Act to reject an application for renewal; only on the ground that there is a break in validity or for the reason that the tenure of the driving licence has lapsed. The provisions of disqualification of the driver

 

contained in Sections 19, 20, 21, 22, 23 and 24 will not be attracted on account of failure to renew the licence.

5. Section 149(2)(a)(ii) of the Act contemplates that the insurance company shall not be liable to indemnify the insured if there is a breach of condition of policy, namely, a condition excluding driving by a named person or persons or by any person who is not duly licensed or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification. In terms of the said condition, the insurance company was required to prove that the driver was not only duly licenced but also he has been disqualified for holding or obtaining driving licence. In terms of Section 15(3) of the Act, where an application for renewal of a driving licence is made more than thirty days after the date of the expiry, the fee payable for such renewal shall be as may be prescribed by the Central Government. The fee in such circumstances is in terms of Rule 18 of the Central Motor Vehicles Rules, 1989 (hereinafter to be referred as "the Rules") as prescribed in Rule 32. Therefore, the renewal of licence after the expiry of one month is a renewal of a licence in terms of the Act and, thus, the driver would be considered as a duly licensed. It is not the case of the appellant that the driver was even disqualified from holding licence after the expiry of the first renewal and before the same was renewed on 17.3.2004. Therefore, in terms of Section 149 of the Act, the driver of the vehicle was possessed of a valid licence as he was not disqualified from holding a driving licence.

6. A Division Bench of Bombay High Court in New India Assurance Co. Limited v. Mandar Madhav Tambe and Ors. 1986 A.C.J. 874 while considering the provisions of Section 96(2)(b)(ii) of the Motor Vehicles At, 1939, which are para materia to Section 149 of the Act, has held that the persons who once held a licence and are not disqualified are permitted to be drivers in terms of the aforesaid provisions.

7. Similarly, a Division Bench of Karnataka High Court in Oriental Insurance Co. Limited v. Folix Correa and Ors. 1989 A.C.J. 430, has held that the insurance company is liable to indemnify the insured where a driver was holding a learner licence before and after the date of accident. The Division Bench of Karnataka High Court has approved the judgment of Bombay High Court in Mandar Madhav Tambe''s case (supra) and Himachal Pradesh High Court in United India Insurance Co. Limited v. Tilak Ram 1985 A.C.J. 481, holding that the insurance Company is liable to indemnify the insured if the driver who once held a licence and is not disqualified is holding a valid driving licence.

8. In view of the above, I am of the opinion that the Insurance Company has been rightly made liable for payment of compensation as the driver was deemed to be holding a valid driving licence.

 