IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4179 of 2004 (O&M)
Date of decision:28.09.2010

National Insurance Company Limited ....Appellant

versus

Arjan Singh and others ....Respondents

II. <u>Civil Revision No.4767 of 2004</u> (O&M) &
III. <u>Civil Revision No.4768 of 2004</u> (O&M)

National Insurance Company Limited ....Appellant

versus

Motor Accident Claims Tribunal
(Fast Track Court), Karnal, and others ....Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Navin Kapur, Advocate, for the appellant.

None for the respondents.

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1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not ?
3. Whether the judgment should be reported in the digest ?

<u>K.Kannan, J.</u> *(Oral)*

1. The appeal in FAO No.4179 of 2004 and two Civil Revisions (4767 and 4768 of 2004) arise out of the same accident. The insurer's contention was that the driver was not duly licensed. The

Tribunal had, on the application filed by the insurer, directed a report to be sent by the Licensing Authority at Amritsar to verify the details of the validity of the licence produced on behalf of the driver. The report had been given to the effect that the driving licence particulars contained in the copy of the driving licence did not tally with the name of the driver and that the copy filed in Court was a fake one. The Tribunal did not still accept the report on the ground that no proof was adduced to show that the report was genuine. When the report was not statutory and qualify as a public document, it cannot be taken in evidence without adequate proof of the same by summoning the register or examining any person connected with the records. The Tribunal was, therefore, justified in holding that the Insurance Company had not established the genuineness of the report.

2. It is not too clear from the records as to the actual recital contained in the petition on the basis of which the Tribunal had directed the licensing authority to issue a report of verification. However, I accept the contention on behalf of the Insurance Company that it was led to believe that the production of the report was itself sufficient for proof of what it contended about the licence. I am of the view that one opportunity shall be given to the Insurance company to establish the genuineness of the report by examining a witness from the competent authority to tender evidence with reference to the document that the licence had not been issued in favour of the driver. The owner and driver may also join at the trial to let in contra evidence and substantiate their own claim that the driving licence was genuine.

3. At the stage of admission of the appeal on 20.09.2004, this Court has dismissed the appeal qua respondents 1, 2, 5 and 6 and has issued notice only to respondents 3 and 4. The case will stand reopened only for consideration of the inter se dispute between the insurer and the insured and it shall not be necessary for the Tribunal to even issue notice of hearing to the claimants. The award of the Tribunal is set aside and the matter is remitted to the Tribunal only for adjudication relating to the validity of the driving licence. In all other respects, the award of the Tribunal is confirmed.

4. The parties shall appear before the Tribunal at Karnal on 09.11.2010.

5. The appeal and the revisions are disposed of as above.

(K.KANNAN)
JUDGE

28.09.2010
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