

Surjan Ram Vs Anchal Singh (Died) and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: May 27, 1997

Acts Referred: Motor Vehicles Act, 1988 " Section 149

Citation: (1999) ACJ 53 : (1997) 117 PLR 844 : (1997) 3 RCR(Civil) 670

Hon'ble Judges: R.S. Mongia, J; M.L. Koul, J

Bench: Division Bench

Advocate: R.S. Longia, for the Appellant; A.S. Virk, for the Respondent Nos. 1 and 2 and Ravinder Arora, for the Respondent No. 3, for the Respondent

Final Decision: Allowed

Judgement

R.S. Mongia, J.

Two motor vehicles were involved in an accident. The appellant is the owner of one of the vehicles i.e. Truck No. HR-

07-A/1961. The other vehicle was a tractor. Some persons who were on the tractor received injuries. They filed separate claim petitions and it

was held that the driver of the truck was negligent and not the driver of the tractor. The Motor Accidents Claims Tribunal, Kurukshetra, awarded

Rs. 20,000/- as compensation On account of the injuries received by the claimant. The truck was insured with National Insurance Company

Respondent No. 3. However, the insurance company was absolved of its liability on the ground that the driver of the offending vehicle i.e. the truck

was not holding a valid driving licence on the day when the accident occurred. Consequently the driver and the owner of the truck (the appellant)

were held jointly and severally liable to pay the compensation. This appeal has been filed by Surjan Ram the owner of the truck.

2. It is, inter alia, contended by the learned counsel for the appellant-that the finding of the tribunal that the truck driver did not have a valid driving

licence is based on no evidence at all. In para 21 of the award, the Motor Accidents Claims Tribunal has observed as under :-

Here the insurance company examined the Surveyor, who is a retired Flight Lt. and has no reason to make a false report after verifying the same

from the office of the Licensing and Registering Authority, New Delhi. Even otherwise a casual glance on the original licence will show that on the

reverse of the same a paper has been pasted and thereafter some entries have been made showing that the said driving licence was valid for driving

a heavy motor vehicles, With effect from 11.6.1991. Under these circumstances, it is held that on the date of accident respondent No. 1, Who

was driving the offending truck, was not holding a valid driving licence to drive a heavy motor vehicle, as the truck in question was. So, the insurer

of the truck is not liable to indemnify the insured and that the amount of compensation, if any, awarded shall be payable by respondent Nos.1 and

2, driver and registered owner of the truck being Registration No. HR-07A/1961.

3. It is not disputed that no person from the office of the Licensing Authority was examined by the Insurance Company. It relied only on the report

of its Surveyor. Moreover the Motor Accidents Claims Tribunal itself has observed that there were entries on the licence showing that the driving

licence was valid for driving heavy motor vehicles with effect from June 21, 1991. The Accident occurred on 11.3.1994. From the reading of the

finding of the Motor Accidents Claims Tribunal, we are of the view that the same is not well based and is not supported by evidence. The

surveyor's report by itself could not show that the driving licence was invalid. The onus could not be said to be discharged by the insurance

company merely by producing the Surveyor, who is engaged by the company for making the, survey. We are not, satisfied that the finding

regarding the invalid licence is well based. Rather, we are of the view that on this evidence as produced before the Motor Accidents Claims

Tribunal, it could not be found as a fact that the driver of the truck did not hold the valid licence on the date of occurrence of the accident. This

finding is hereby reversed.

4. As a sequel to the aforesaid finding the insurance company would be liable to discharge the liability of the owner i.e. the insured. If the insured

i.e. the appellant has already paid the amount of compensation or part thereof, would be entitled to claim the same from the insurance company

and if any amount is still payable out of the compensation awarded the claimants shall realise the same from the insurance company. The appeal is

allowed in the aforesaid terms.