

National Insurance Co. Ltd. Vs Sammi Bai and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Sept. 13, 2006

Citation: (2007) 1 ACC 661

Hon'ble Judges: Arvind Kumar, J

Bench: Single Bench

Judgement

Arvind Kumar, J.

This appeal is by the Insurance Company against award dated 21.8.1996 passed by the Motor Accident Claims

Tribunal, Sirsa, whereby on the basis of compromise/settlement arrived at between the parties, it has been ordered to pay compensation of Rs.

80,000 to the claimants within two months failing which the claimants will get interest on the said amount at the rate of 12 per cent per annum from

the date of compromise i.e., 26.4.1995 till recovery of the amount. Out of the aforestated amount, a sum of Rs. 20,000 has been ordered to be

paid to claimant Sammi Bai in cash while the remaining amount of Rs. 60,000 has been ordered to be deposited in fixed deposit in some

nationalised bank fetching maximum interest and the interest so accruable on the said deposit is to be given periodically to Sammi Bai claimant

towards her maintenance.

2. Briefly, the facts of the case are that on 6.7.1994, deceased Sukh Ram was going on his cycle from the side of Bamboo Chowk in village

Mangla when a truck bearing Registration No. PAR-9490 driven by Kashmir Singh came and hit Sukh Ram resulting in his death. Thereafter, an

FIR was got registered in this regard at P.S. Sadar, Sirsa. A claim petition was then filed by the legal heirs of Sukh Ram, claiming compensation on

account of his death.

3. Upon notice of the claim petition, written statement was filed by the appellant-respondent, Insurance Company, contending that the deceased

himself was rash and negligent in driving his cycle. It took up the plea that the driver of the offending truck, Kashmir Singh, did not possess a valid

driving licence and as such, it is not liable to pay any compensation.

4. During the pendency of the claim petition, i.e., on 26.4.1995 the case was taken up by the Lok Adalat where it was agreed between the parties

to settle the claim for an amount of Rs. 80,000 if the said amount was not paid within two months from the date of award, claimants were held

entitled to get interest at the rate of 12 per cent per annum from the date of award onwards till realization. This was, however, subject to

verification of driving licence within three months only. However, on 29.7.1995, the Insurance Company moved an application stating that the

driving licence of Kashmir Singh has been found to be fake and so, they were not ready to accept the conditional compromise. Thereafter, the

Insurance Company sought as many as three opportunities to verify the genuineness of the driving licence but despite the grant of such

opportunities, the Insurance Company failed to do so. Accordingly, the Tribunal in view of the aforestated compromise, vide the impugned award

holding the driving licence of Kashmir Singh to be valid one, directed the Insurance Company to pay compensation of Rs. 80,000 within two

months. The Insurance Company has now impugned the award by way of instant appeal.

5. I have heard the Counsel for the parties.

6. In the instant case, no doubt the Insurance Company had moved an application on 29.7.1995 within the stipulated period of three months so

granted for verification of the driving licence but the record shows that no cogent evidence had been led to substantiate the plea so taken in the

application. On the contrary, a bare perusal of order dated 21.8.1996 reveals that the learned Tribunal had noticed report dated 20.8.1996 of

Risal Singh, Surveyor, mentioning that the driving licence of Kashmir Singh was renewed by the Licensing Authority, Bathinda on 22.9.1994 and

originally, it was issued by Licensing Authority, Kota (Rajasthan). Another report dated 26.5.1995 of the Surveyor, Satish Kumar Bansal, showed

that Bathinda Authorities had issued registered notice to Licensing Authority, Kota before renewal of the licence of Kashmir Singh and on that

basis, came to the following conclusion:

Hence, I am of the considered opinion that on the date of accident, the respondent No. 1 was having a valid driving licence.

7. Subsequently, in the same order, it was also opined that from reports dated 20.8.1996 and 26.5.1995 of the Surveyors from the Insurance

Company itself, the driving licence of Kashmir Singh has been found to be genuine. There is no dispute with the proposition of law that onus is on

the Insurance Company to prove that the driver of the truck was not holding a valid driving licence by leading cogent evidence. However, in the

instant case, as indicated above, the Insurance Company failed to discharge the said burden despite the grant of numerous opportunities; rather the

reports of the Surveyors showed that the driving licence of Kashmir Singh was found to be genuine.

8. In view of the discussion above, there is no infirmity in the impugned award. The appeal is accordingly dismissed. No costs.