

(2014) 07 P&H CK 0692

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 1241 of 1993(O&M)

State of Haryana

APPELLANT

Vs

Phool Singh

RESPONDENT

Date of Decision: July 22, 2014**Citation:** (2014) 176 PLR 724**Hon'ble Judges:** K. Kannan, J**Bench:** Single Bench**Advocate:** D.D. Gupta, Additional Advocate General, Advocate for the Appellant; L.M. Suri, Senior Advocate and Neeraj Khanna, Advocate for the Respondent**Final Decision:** Dismissed

Judgement

K. Kannan, J.

The appeal by the State is on an issue of liability where the right of indemnity to the Government has been denied. At the trial there was no driving license produced by the Haryana Roadways in spite of objection by the insurer that there was no valid insurance.

2. At the appellate court the State has filed an application for reception of additional evidence 21 years after the institution of the appeal. The copy produced is purported to be copy of the original license issued by the DTO's office at Sikkim and renewed at Jagadhri. Since the copy is not decipherable I asked the counsel to produce the original of what he had. It is purported to have been issued by the Licensing Authority at Sikkim but curiously neither the license number nor the issuing office is visible from the original, the same way it is not possible to see from the copy. Learned counsel states that it was renewed subsequently by the Licensing Authority at Jagadhri in the year 1988. The renewal or validity of license ought to depend on the validity of the original license itself and if the original is fake even an endorsement of renewal cannot validate the fake license as laid down by the Supreme Court in [National Insurance Co. Ltd. Vs. Swaran Singh and Others](#), The document produced does not evoke confidence in view of the fact that the most

vital feature that could be found in the document of license namely the license number is not revealed in the document. There is also no justification made for the non-production of the original at the trial and for not offering any evidence regarding the possession of license by the driver at the time of trial.

3. State Corporations or government run roadways have literally monopoly for running long distance buses and the State is the largest fleet owners in India, notwithstanding the relaxation of rules regarding grant of permits for state carriage in the scheme of Motor Vehicles Act, 1989. The State also happens to be among the major contributors in motor accident claim cases. It owes a duty to the public to put the vehicles incharge of persons who hold valid driving license. No appointment order could be issued without strict observance of rules relating to verification of the driving license of the drivers who are employed as such. It cannot be a situation ever that at the trial relating to a claim for compensation, the State is caught unawares on whether the driver had a driving license or not. It ought to prove all the details of what were furnished at the time when the recruitment was made and inability for any reason, such as even a loss of license by the driver, cannot fetter the State which employs them, if only they have applied alacrity in securing the necessary information. Even at the trial the State ought to have supplied information regarding the details of license of the driver whom they have employed and who had been put incharge of the vehicle that was found guilty of rash and negligent driving. In the absence of such proof of details of license even at the time of trial, I would only observe that the State has been negligent in not observing the minimal standard of care of what it was bound to do. If the State comes by harm and deprived of indemnity from the insurer, the blame has to be taken by a person who was instrumental in making an appointment to a person whose driving license particulars were not taken and whose license itself was grossly suspect. I will afford no benefit to the State for its lackadaisical approach in failing to tender at the trial proper evidence regarding driving license of its driver.

4. I dismiss the application for reception of additional evidence and dismiss the appeal as well.