

(2018) 08 RAJ CK 0045

Rajasthan High Court (Jodhpur Bench)

Case No: Civil Miscellaneous Appeal No. 85 of 2002

Oriental Insurance Company
Limited @APPELLANT@Hash
Smt. Begam Banoo

APPELLANT

Vs

RESPONDENT

Date of Decision: Aug. 8, 2018

Acts Referred:

- Motor Vehicles Act, 1988 - Section 7, 166, 140, 173

Hon'ble Judges: DR. VIRENDRA KUMAR MATHUR, J

Bench: Single Bench

Advocate: Jagdish Vyas

Final Decision: Allowed

Judgement

This miscellaneous appeal under Section 173 of the Motor Vehicles Act, 1988 is filed against the award under Section 166 of the Motor Vehicles Act,

1988 passed by the Motor Accident Claims Tribunal, Bikaner in case No.115/1997, Smt. Begum Banoo & Ors. v. Teja Singh & Ors., decided on 13.11.1998.

Briefly stated, facts of the case are that on 31.1.1997 at about 07:00 PM, near A.K.Tiles factory on Gangashahar Road at Bikaner, an accident took

place. Nek Mohammed was going on his scooter No.RJ-07-M-0294. When he reached near the factory a truck bearing No.P.I.C.5625 came from

opposite direction and dashed the scooter thereby Nek Mohammed fell down and got grievous injuries. He was immediately taken to the PBM

Hospital but during the treatment he died. The legal heirs of deceased Nek Mohammed filed the claim petition under Sections 166 and 140 of the

Motor Vehicles Act. The appellant insurance company filed the written statement with the specific plea that driver Teja Singh was not having the valid licence for driving the truck but the learned tribunal without considering the specific plea and the provisions of the Motor Vehicles act passed the award as aforesaid.

It was contended that the learned tribunal has erred in considering the driving licence presented in the court by the counsel for the non-applicant

respondents No.9 and 10 at the time of argument. The licence was issued by the District Transport Officer, Amritsar on 8.2.1993 valid upto 7.2.1999,

for a period of six years, which is not valid. The licence for heavy heavy goods vehicle is always issued for three years only and not more than three

years in any circumstances. The Full Bench of Punjab and Haryana High Court held in National Insurance Company Limited v. Santra Devi & Ors.,

that "a forged driving licence though may be validly renewed would not become a valid driving licence or a duly issued driving licence in

accordance with the Motor Vehicles Act". As such, the award passed by the learned tribunal requires reconsideration. It was also contended that

the learned tribunal has erred in not considering the Section 7 of the Motor Vehicles Act, 1988 which put a restriction even on the learner's

licence for transport vehicles. "No person shall be granted a learner's licence to drive a transport vehicle unless he has held a driving licence to

drive a light motor vehicle for at least one year". The disputed licence was directly issued for heavy goods vehicle on 8.2.1993 without a valid driving

licence for light motor vehicle. As such, the licence in question is a fake and forged licence. The tribunal has not afforded an opportunity to the

appellant insurance company to verify the particulars of the driving licence of Teja Singh from the District Transport Office, Amritsar. After

investigation it was found that the disputed driving licence is fake and forged. The tribunal should not have taken the copy of the driving licence on

record at the time of argument. No other points were raised by the appellant.

In view of the contentions raised by the appellant, perused the award and the evidence placed on record.

Learned tribunal while deciding the issue No.3, considered the question whether the driver of the vehicle was holding a valid and effective licence at

the time of accident. Learned tribunal while deciding this issue held that during the course of argument non-applicants No.1 and 2 submitted certified

copy of the driving licence. On perusal of that licence, it cannot be said that the respondent No.1 was not holding valid and effective licence and

decided this issued against the non-applicant No.3. On perusal of the certified copy of the licence which was placed on record, the said licence was

issued by the District Transport Office, Amritsar. Admittedly, the licence was issued on 8.2.1993 and the validity of the licence was upto 7.2.1999.

The licence was issued for a period of six years. It is also true that the licence for heavy goods vehicle is always for three years only and not more

than three years in any circumstances. Under these circumstances, when the licence is produced during the course of argument, the tribunal should

have afforded an opportunity to the appellant insurance company to verify the particulars of the driving licence of Teja Singh from a District Transport

Office. Without investigation and verification of the particulars of the licence no conclusion should have been arrived.

In view of this, this miscellaneous appeal deserves to be allowed and the same is allowed. The impugned award dated 13.11.1998 is set aside and the

case No.115/1997 is remanded back to the Motor Accident Claims Tribunal, Bikaner with a direction to decide the issue No.3 afresh after providing

an opportunity to the appellant insurance company to bring on record the facts relating to validity and effectiveness of the driving licence after

investigation.