

1. FAO No.5048 of 2006 (O&M)
Date of decision: 23.7.2012

...Appellant

...Respondents

2. FAO No.5049 of 2006 (O&M)
Date of decision: 23.7.2012

...Appellant

...Respondents

Present: Mr. P.S. Khurana, Advocate for the appellant.
Mr. Gopal Mittal, Advocate for respondent No.2.
Mr. Ravinder Arora, Advocate for respondent-
New India Assurance Company Ltd.

Rajan Gupta, J.

This order shall dispose of above mentioned two appeals.

Both the appeals have been filed on behalf of Jaswant Singh- owner of the offending vehicle impugning the award passed by the Tribunal on the limited issue of recovery rights granted to the insurance company.

Learned counsel for the appellant has argued that driver Nachhattar Singh was having a valid driving licence at the time of accident. Thus, the Tribunal has wrongly granted recovery rights to the insurance company. He further submits that the appellant-owner has now been able to collect evidence regarding validity of the driving

licence which driver was holding.

Learned counsel appearing for insurance company submits that a sum of Rs.51,000/- has been granted for the injuries suffered by injured Sammi Kumar and Rs.2.00 lacs in respect of death of Narender Kaur. According to him, appeals filed by claimants have already been dismissed on 18.7.2012. Onus to prove the fact that driver was not having valid driving licence was on the owner who failed to discharge the same.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

A perusal of the impugned award shows that neither the owner produced any evidence to show that driver Nachhattar Singh was having a valid driving licence at the time of accident nor the driver himself discharged this onus. The Tribunal while holding the owner, driver and insurance company as jointly and severally liable, granted recovery rights to the company, in view of absence of a valid driving licence of the driver at the time of accident. It is evident that the proceedings remained pending before the Tribunal for four years. No evidence was produced during this period to show that the driver had a valid driving licence. Plea taken at this stage for leading additional evidence in this regard, in my considered view, is misconceived. The appeal is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

23.7.2012
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