

Therefore, the writ petition is liable to be dismissed on this short ground. Even otherwise, a Full Bench of this Court in the case of Manjit Singh v. State of Punjab and others (C.W.P. No. 451 of 2008, decided on 5.2.2010) has now taken the view that higher qualification of B.A. B.Sc. or B.Ed. for appointment to the post of Junior Basic Training Teachers is no bar (C.f. Full Bench judgment in the case of Som Dutt v. State of Punjab, 1983 (3) SLR 141). It is further appropriate to mention that vide notification dated 28.2.2003, 'the Rules' have been amended and Note (ii) from Appendix 'B' has been deleted.

(11) For all the reasons mentioned above, this petition fails and the same is dismissed.

P.S. Bajwa

Before K. Kannan, J.

**NATIONAL INSURANCE COMPANY LTD.,
CHANDIGARH,—Appellant**

versus

PRANAY SETH AND OTHERS,—Respondents

FAO No.3086 of 2011

20th April, 2011

Motor Vehicles Act, 1988 - S.166 & 149 - Defence of Insurance Company of violation of terms of insurance policy - Genuineness of driving licence - Normal test - Whether there has been any breach or violation of terms of policy by insured himself - Bonafides of the owner (insured) material - He ought to have some reason to suspect the genuineness of the driving licence - There was evidence about the bonafides of belief that licence was genuine - Insurance company's appeal dismissed.

Held, That there were also occasions when the licence was checked by police at many nakas and the inference, therefore, was that no one ever suspected the genuineness of the licence. When we are allowing for an insurer to take a defence of violation of terms of policy, we normally test it on the light of whether there had been any breach of violation of terms of policy by the insured himself. It is the bona fides of the owner that is

material and he ought to have some reason to suspect the genuineness of the same. The case has still to be held against the insurer for the fact that there was evidence of the owner about the bona fides of belief that the driving licence was genuine. The award is confirmed and the appeal is dismissed.

(Para 4)

Paul S. Saini, Advocate, *for the appellant.*

K. KANNAN J. (ORAL)

(1) The appeal by the insurance company is against the liability cast on the insurer in spite of the fact that the insurance company was able to establish through a verification report that the driving licence was not genuine. The Tribunal found that the burden of proof was on the insurer to establish that the licence was not genuine and no witness from the Licensing Authority had been examined.

(2) Learned counsel appearing for the appellant states that the insurance company did not have any adequate opportunity to examine witness from the licensing authority since the document itself was filed before the Tribunal only on the last hearing date on 05.10.2010 and soon after the document was produced, they were able to secure the verification report through the licensing authority and therefore, the reasoning of the Tribunal was not appropriate.

(3) Even if the contention of the insurance company were to be accepted that the driving licence was really a fake one and that could be covered by the fact that even the driver had admitted to the fact that he had not gone Nagaland at any time to secure the driving licence and it had been secured through an agent, I will not find this to afford to the insurance company a right to contend that the insured is not entitled to indemnity. The owner himself was examined as RW-1 and he stated in the cross-examination thus :-

“My vehicle is insured vide insurance policy Ex.R4. While appointing the driver Bijender Singh, I checked his driving licence, it was a valid driving licence for heavy goods vehicle. He was working with me since 2004 when I purchased this truck. Many times, I travelled with him. His licence was checked by the traffic police at many Nakas.”

ORIENTAL INSURANCE COMPANY LTD., THROUGH ITS REGIONAL 715
MANAGER, SCO NO. 109-11, SECTOR 17-D, CHANDIGARH v.
RAJINDER KAUR AND OTHERS (*K. Kannan, J.*)

(4) He has stated that he travelled along with him and that there were also occasions when the licence was checked by police at many nakas and the inference, therefore, was that no one ever suspected the genuineness of the licence. When we are allowing for an insurer to take a defence of violation of terms of policy, we normally test it on the light of whether there had been any breach of violation of terms of policy by the insured himself. It is the bona fides of the owner that is material and he ought to have some reason to suspect the genuineness of the same. The case has still to be held against the insurer for the fact that there was evidence of the owner about the bona fides of belief that the driving licence was genuine.

(5) The award is confirmed and the appeal is dismissed. The amount of Rs.25,000/- which has been deposited before this Court at the time of preferring the appeal, is ordered to be transmitted to the Tribunal for part satisfaction of the award.

V. Suri

Before K. Kannan, J.

**ORIENTAL INSURANCE COMPANY LTD., THROUGH ITS
REGIONAL MANAGER, SCO NO.109-11, SECTOR 17-D,
CHANDIGARH,—Appellant**

versus

RAJINDER KAUR AND OTHERS,—Respondents

F.A.O. No. 3091 of 2011

20th April, 2011

Motor Vehicles Act, 1988 - S. 166 & 163-A - Death case - Multiplier in case of a young bachelor - Judicial pronouncements and what is statutorily provided under Schedule II reconciled - Multiplier of 17 applied - Multiplier could relate to the age of the deceased and need not necessarily be confined only to the age of the parents - Appeal dismissed.

Held, That wherever the claim is in excess of Rs.40,000/- and there is no scope for application of the scales of compensation provided under Schedule II, the Tribunal shall take a 50% cut in the manner laid down by the Hon'ble Supreme Court in Sarla Verma's case (supra) and apply also the multiplier suitable to the age of the younger of the parent. That is the only way to reconcile between what has emerged through the judicial pronouncements