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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 17th August, 2012

+ **MAC. APP. No.488/2009**

TANUJ VERMA & ORS. Appellants

Through: Mr. Om Prakash, Advocate.

Versus

RAGHVENDRA SINGH & ORS. Respondents

Through: Ms.Manjusha Wadhwa, Advocate for the
Respondent No.3 Insurance Company.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. This Appeal is directed against a judgment dated 30.05.2009 passed by the Motor Accident Claims Tribunal(the Claims Tribunal) whereby a Claim Petition filed under Section 166 of the Motor Vehicles Act, 1988(the Act) preferred by the Appellants to claim compensation for the death of Rakesh Verma was dismissed by the Claims Tribunal.
2. The Claims Tribunal opined that the Appellants had failed to establish that the accident was caused by RTV No.DL1V-7384 which was allegedly driven by the First Respondent at the time of the accident. Since negligence was not established, the Claims Tribunal did not go into the quantum of compensation. The Claims Tribunal's reasoning on the issue of negligence is extracted hereunder:

“17. I witness Sh. Rajiv has supported the averments made in the petition regarding the involvement of the vehicle RTV Bus No. DL1V-7384. No doubt, he has not been cross examined by the respondent no. 1 & 2 and in view of which he was allowed to be cross examined by counsel for R3 by the order of Ld. Predecessor. This witness has replied that his statement had been recorded only once by the police and that the same had been read over to him by the police. The witness also admitted that there was PCO booth near the DC Office i.e at the spot of accident and it is admitted that before taking the injured to hospital, no call had been made to the police. Site plan had also not been prepared in presence of the witness. Witness further admitted that he did not tell anything in the hospital about the vehicle number which caused the accident.

18. At this stage respondent no. 1 also obtained permission from Ld. Transferrer Court for cross examining the eye witness and during this cross examination he revealed that it was he along with few other persons who took the injured to GTB Hospital in an another RTV which came subsequent to the accident.

19. The driver respondent no. 1 was examined by the insurance company as R3W4 and he stated that he was not driving RTV Bus No. DL1V-7384 on 02/02/05 at 2.15 pm opposite DC Office Gangan Cinema and that he had been falsely implicated by the petitioner. He further replied that at the time of the alleged accident he had been driving the above mentioned vehicle near Red Fort. He admitted that he had been arrested and later released on bail, however, he states he was released and that the eye witness identified him as being the driver of the offending vehicle. However it was volunteered that the so called eye witness was the stock witness of the police. Respondent no. 1 consistently maintain the stand that he was not driving the vehicle DL1V-7384 RTV at or near the spot of accident on the date of alleged accident.

20. Since the involvement of the RTV bus No. DL1V-7384 has been very hotly disputed in this case, it becomes

necessary to peruse the documents of the criminal case. The first information about the accident is only in the form of DD no. 12A which states that at 3 pm, duty constable Mukesh Kumar called up from GTB hospital at the P.S about a victim of road accident having been admitted in the hospital. It is further stated in the report that one Dharmender S/o Vijay Singh got the victim admitted. This telephone call is stated to have been received at 3 pm on 02/02/05. Surprisingly this accident is stated to have occurred at 5.15 pm by the petitioners themselves.

21. Upon the receipt of this telephonic information recorded as in DD 12A, Ex. P2 ASI Virender was assigned the investigation of the case and he reached GTB Hospital and obtained the MLC No. B-252/05 pertaining to an unknown person aged to be 35 years. The victim had been declared brought dead as per the MLC. No eye witness was found in the hospital nor the person called Dharmender who had brought the victim was found. The ASI Virender then returned to the spot of accident where also he did not find any eye witness. From the MLC, a case U/s 279/304A was being made out and accordingly FIR was got registered. The certified copy of the tehrir has been Ex. P3, site plan was prepared by SI Brijjpal which states thereunder that point A is the spot where the accident occurred and the arrows are showing the direction of the RTV bus. No number of the RTV is stated.

22. The FIR No. 75/05 dated 02/02/05 part of Ex. PW1/A colly shows the number of the offending vehicle as "unknown". The report U/s 158 (6) M.V. Act also shows the vehicle as unknown. There are two reports U/s 158 (6) filed in this court one has been exhibit and the other not. The report which is exhibit is PW1/A showing tick mark before document like R/C, D/L and mechanical inspection report etc. however not bearing any date. The other report also not dated from the same PS is having eight pages which is showing the case as not worked out and before all the documents D/L, R/C the word written are "No". The mechanical inspection report is shown to have been done on 21/03/05 i.e about one and a half month of the date of the

alleged accident. So is the case with the seizure memo of the D/L of R1.

23. Most surprisingly there is a seizure memo of another D/L of the same driver Raghvender Singh however of bus no. DL1VA-1337. This D/L is shown to have been seized in another FIR bearing No. 332/03. The FIR of the present case was registered vide No. 75/05 while the D/L seized in FIR No. 332/03 is of the same driver pertaining to another bus no. DL1VA-1337 RTV. The documents are on record are not reflecting anywhere as to how the respondent no.1 Raghvender Singh has been dragged into this case as being the driver of RTV bus No. 7384 and as having caused the accident.”

3. It is established on record that immediately after the accident, the deceased Rakesh Verma was removed to GTB Hospital. An MLC No.9234/05 was prepared in the Hospital. After examining the patient, that is, the deceased, he was declared as “brought dead” in casualty. A perusal of the MLC shows that the deceased was brought to the Hospital by one Dharmender S/o Vijay Singh on 02.02.2005 at 2:30 pm. It is recorded on the MLC that the deceased was brought with the history of road side accident(RSA). He was unconscious; his pupils were dilated and fixed; his blood pressure(BP) and pulse rate were not recordable.
4. The Appellants produced PW2 Rajeev, an eye witness to the accident. He testified that on 02.02.2005 at about 2:15 pm, he was present on the bus stand of DC Office, near Gagan Cinema, Nand Nagri as he was to get a bus from there. An RTV bus No.DL1V-7384 came from the side of Wazirabad Road. It was being driven at a very high speed and in a very rash and negligent manner. It hit against a person aged about 30/31 years. The said person fell down on the road and the RTV driver ran away from the site. The deceased received grievous injuries on his head

and blood started oozing from his ear. He deposed that thereafter another RTV No.DL1VA-1770 came there. He along with other persons removed the injured to GTB Hospital where the injured was declared “brought dead”. He added that he along with other persons returned to the site. Police reached there and made inquiries from him.

5. Thus, from PW2’s testimony, it was evident that he was not related to the deceased or his family members. He was not even known to him(the deceased). Nothing could be brought in his cross-examination which could have suggested that PW2 had any motive to falsely implicate RTV No.DL1V-7384.
6. A perusal of the impugned judgment goes to show that the Claims Tribunal was not satisfied about the actual time of accident. The Claims Tribunal went on to observe that according to the Petitioners, the accident took place at about 5:15 pm, whereas DD No.12A was recorded at 3:00 pm. The Claims Tribunal further suspected the involvement of the RTV No.DL1V-7384 on the ground that in the FIR, the number of the offending vehicle was shown “unknown”. It further held that *‘there was a seizure memo of another driving licence of the driver Raghvender Singh but the bus number mentioned was DL1VA-1337’*. To say the least, the entire approach adopted by the Claims Tribunal was perfunctory and the conclusions reached were perverse. Of course, in para 8 of the Claim Petition, the time of the accident was mentioned as 5:15 pm, however, in para 23 it was clearly stated as under:

“That on 02.02.05 at about 2.15 P.M. the deceased was coming to home and he was standing on the road opposite D.C. Office and he was waiting for bus. In the mean time a R.T.V. bus DL 1V7384 which was driven by the driver/respondent No.1, came from the side of Wazirabad, Delhi at very high speed in very rash and negligent manner

and struck the deceased. As a result of which the deceased fell down on the road and crushed the deceased by the offending R.T.V. bus and the deceased received grievous and multiple injuries on his body and the driver/respondent No.1, ran away from the spot and immediately deceased was admitted in G.T.B. Hospital, Shahdara, Delhi by the public person by another R.T.V. and the doctor examined the deceased and he declared brought dead in the hospital. This accident was solely caused due to the rash and negligent driving on the part of the respondent No.1.”

7. Had the Claims Tribunal applied its mind and gone through the MLC, it would have known that the injured was admitted in the Hospital at 2:30 pm and the accident must have taken place some time before he was brought to the Hospital. The place of accident was quite close to GTB Hospital. DD No.12A was recorded in P.S. Nand Nagri at 3:00 pm and the FIR No.75/2005 was recorded at 5:15 pm. Thus, there was nothing on the record to conclude that as per the Appellants’ case, the accident took place at 5:15 pm.
8. The driver of the offending vehicle was arrested during the course of investigation and he was found not to be in possession of his driving licence. His driving licence was seized in an earlier case under Section 279/338 IPC in FIR No.332/2003 relating to P.S. Kirti Nagar. The seizure memo of the licence in FIR No.332/2003 shows that it was seized by the IO of the case FIR No.75/2005 P.S. Nand Nagri(this case). The accident in FIR No.332/2003 P.S. Kirti Nagar was allegedly caused by the First Respondent while driving another RTV No. DL1VA-1337. The Claims Tribunal created a confusion by stating “D/L seized in FIR No.332/03 is of the same driver pertaining to another bus no. DL1VA - 1337 RTV”.

9. The Claims Tribunal ought to have been mindful of the fact that the driving licence does not relate to any particular vehicle. It relates to category of a vehicle which can be driven by the holder of a licence. The Claims Tribunal, however, went on to add that he was driver of RTV No. DL1VA-1337 and he has been falsely dragged into this case being driver of RTV No.DL1V-7384. The Claims Tribunal lost sight of the fact that the First Respondent who entered the witness box as R3W4 did not even dispute that he was the driver of RTV No.DL1V-7384. What he had said was *“I was not driving vehicle No.DL1V-7384 on 2.2.2005 at 2.15 p.m. opposite DC office, Gagan Cinema. I was falsely implicated by the petitioner in this case. At the time of alleged accident, I was driving above mentioned vehicle near Red Fort.”* Thus, what was stated by the First Respondent on oath was that he was driving the offending vehicle at the time of the accident near Red Fort. In cross-examination, R3W4 (the driver of the offending vehicle) admitted that an eye witness identified him as a driver of the offending vehicle (in the criminal case). He went on to add that the eye witness was a stock witness of the police. No such suggestion was given to PW2 in the cross-examination. As I have already observed earlier that PW2 Rajeev was neither related nor even known to the deceased or his family, he gave the number of this vehicle when he made a statement to the IO of the case on his return from the Hospital. The Claims Tribunal ought to have been mindful of the fact that in a Petition under Section 166 of the Act, negligence is required to be proved only on the touchstone of preponderance of probability.
10. In *Bimla Devi and Ors. v. Himachal Road Transport Corporation and Ors.*, (2009) 13 SC 530, the Supreme Court held that in a Petition under Section 166 of the Act, the Claimants are merely to establish their case on the

touchstone of preponderance of probability and a holistic view is to be taken while dealing with the Claim Petition under the Motor Vehicles Act. Para 15 of the report is extracted hereunder:

“15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied.”

11. The report in *Bimla Devi (supra)* was relied on by the Supreme Court in its latest judgments in *Parmeshwari v. Amir Chand*, (2011) 11 SCC 635 and *Kusum Lata v. Satbir*, (2011) 3 SCC 646.
12. PW2's testimony is corroborated by registration of a criminal case against the First Respondent. The First Respondent has not come forward with an explanation as to how the RTV No.DL1V-7384 was involved in the accident. In the circumstances, to my mind, it was established that the accident was caused on account of rash and negligent driving of RTV No.DL1V-7384 driven by the First Respondent.
13. Turning to the question of quantum of compensation, the Appellants claimed that the deceased was working as a 'karigar' with M/s. Jevar Mahal at Noida. PW1, the deceased's widow testified that the deceased was getting a salary of ₹6,000/- per month. She added that he (the deceased) had studied upto 10th Class. In cross-examination, she admitted that she had no document to prove her husband's employment or his salary. She admitted that she did not have any documentary evidence with regard to the deceased's qualification. She produced the ration card to prove her relationship with the deceased. Thus, it is evident

that the Appellants were unable to produce any evidence to prove the deceased's income or his educational qualification. In the circumstances, the only option available is to award compensation to the Appellants on the basis of minimum wages of an unskilled worker.

14. In the Claim Petition, the deceased's age was stated to be 30 years. The age of the deceased's elder daughter was 15 years. As per post mortem examination, the deceased was aged about 35 years. In the absence of any other evidence, I would go by the age as given in the post mortem report. Since the deceased's income has been taken as per the minimum wages, assuming him to be a self employed person, the Appellants would be entitled to an addition of 30% in the deceased's income on the basis of the Supreme Court report in *Santosh Devi v. National Insurance Company Ltd. & Ors.*, 2012 (4) SCALE 559, relied on and discussed by this Court in *Rakhi v. Satish Kumar & Ors.* (MAC. APP. 390/2011) decided on 16.07.2012. The number of dependents including the deceased's father were six. Even if the Appellant No.5, the deceased's father, is not considered as dependent, there were five dependents. Thus, deduction of 1/4th was to be made towards the personal and living expenses of the deceased. (*Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121).
15. In view of above discussion, the loss of dependency comes to ₹5,69,836/- (₹3044/- + 30% x 3 ÷ 4 x 12 x 16).
16. The Appellants would be entitled to a sum of ₹25,000/- towards loss of love and affection and ₹10,000/- each towards loss to estate, loss of consortium and funeral expenses.
17. The overall compensation thus comes to ₹6,24,836/-. The Appellants shall be entitled to interest @ 7.5% per annum from the date of the filing

of the Petition till its payment. The compensation along with interest shall be deposited in the name of the Appellants in UCO Bank, Delhi High Court Branch within six weeks.

18. 10% of the compensation each shall be payable to the Appellants No.2 to 6. Rest 50% shall be payable to the First Appellant. Appellant No.2 must have attained the age of majority now, whereas the Appellants No.3 and 4 must be minor. The Appellants No.5 and 6, the deceased's parents are in advance age. The compensation held payable to the Appellants No.3 and 4 shall be held in fixed deposit till they attain the age of 21 years. 50% of the compensation held payable to the Respondents No.2, 5 and 6 shall be held in fixed deposit for a period of three years, rest shall be released to them. 50% of the compensation payable to the First Appellant shall be held in fixed deposit for a period of three years and rest 50% shall be released on deposit.
19. Now comes the question of liability. It is urged by the learned counsel for the Respondent No.3 National Insurance Company Ltd. that the First Respondent did not possess a valid and effective driving licence to drive a light passenger vehicle, that is, an RTV. He possessed a driving licence No.C08032002285375 which was valid to drive a motorcycle, light transport vehicle(TSR) and light motor vehicle(taxi). The Respondent Insurance Company examined R3W2 Ramesh Kumar, LDC from Transport Authority, Ashok Vihar. He testified that the driver Raghvender Singh (licence No.C08032002285375) was authorized to drive a motor cycle, light motor vehicle(taxi) and LTV(TSR). He deposed that he was not entitled to drive a mini bus. The Respondent Insurance Company established that the First Respondent(driver

Raghvender Singh) was not authorized to drive the class of vehicle which caused the accident, that is, a light passenger vehicle.

20. In order to prove breach of the terms of the policy, the Respondent Insurance Company examined Dinesh Kumar Sikka, its Sr. Assistant as R3W6. He proved the copy of the insurance policy as R3W6/A which excluded the liability of the Insurance Company when the vehicle was driven by a person not possessing a valid driving licence. He proved a notice under Order XII Rule 8 CPC Ex.R3W6/B served upon the driver and the registered owner whereby the driver, registered owner Chander Mohan and the original owner Ashok Kumar were required to produce the original insurance policy and the driving licence of the driver. They failed to respond to the notice or to produce the insurance policy and the driving licence. Thus, the Respondent Insurance Company did whatever was in its power to prove the breach of the terms of the policy.
21. I am supported by the judgment of a Learned Single Judge of this Court in *New India Assurance Company Ltd. v. Sanjay Kumar & Ors.*, ILR (2007) 11 Delhi 733, wherein it is held as under:

“23. Where the assured chooses to run away from the battle i.e. fails to defend the allegation of having breach the terms of the insurance policy by opting not to defend the proceedings, a presumption could be drawn that he has done so because of the fact that he has no case to defend. It is trite that a party in possession of best evidence, if he withholds the same, an adverse inference can be drawn against him that had the evidence been produced, the same would have been against said person. As knowledge is personal to the person possessed of the knowledge, his absence at the trial would entitle the insurance company to a presumption against the owner.

24. *That apart, what more can the insurance company do other than to serve a notice under Order 12 Rule 8 of the Code of Civil Procedure calling upon the owner as well as the driver to produce a valid driving licence. If during trial such a notice is served and proved to be served, non response by the owner and the driver would fortify the case of the insurance company.”*

22. Thus, there is no manner of doubt that the Respondent Insurance Company successfully proved the breach of the terms of the policy.
23. The issue of satisfying the third party liability even in case of breach of the terms of insurance policy is settled by a three Judge Bench report in *Sohan Lal Passi v. P. Sesh Reddy*, (1996) 5 SCC 21. As per Section 149(2) of the Motor Vehicles Act (the Act), an insurer is entitled to defend the action on the grounds as mentioned under Section 149(2)(a)(i)(ii) of the Act. As stated above, the breach must be conscious and willful. Even if a conscious breach on the part of the insured is established, still the insurer has a statutory liability to pay the compensation to the third party and will simply have the right to recover the same from the insured/tortfeasor either in the same proceedings or by independent proceedings as the case may be, as ordered by the Claims Tribunal or the Court. The question of statutory liability to pay the compensation was discussed in detail by a two Judge Bench of the Supreme Court in *Skandia Insurance Company Limited v. Kokilaben Chandravadan*, (1987) 2 SCC 654 where it was held that exclusion clause in the contract of Insurance must be read down being in conflict with the main statutory provision enacted for protection of victim of accidents. It was laid down that the victim would be entitled to recover the compensation from the insurer irrespective of the breach of the condition

of policy. The three Judge Bench of the Supreme Court in *Sohan Lal Passi* analyzed the corresponding provisions under the Motor Vehicles Act, 1939 and the Motor Vehicles Act, 1988 and approved the decision in *Skandia*. In *New India Assurance Co., Shimla v. Kamla and Ors.*, (2001) 4 SCC 342, the Supreme Court referred to the decision of the two Judge Bench in *Skandia*, the three Judge Bench decision in *Sohan Lal Passi* and held that the insurer who has been made liable to pay the compensation to third parties on account of issuance of certificate of insurance, shall be entitled to recover the same if there was any breach of the policy condition on account of the vehicle being driven without a valid driving licence. The relevant portion of the report is extracted hereunder:

“21. A reading of the proviso to sub-section (4) as well as the language employed in sub-section (5) would indicate that they are intended to safeguard the interest of an insurer who otherwise has no liability to pay any amount to the insured but for the provisions contained in Chapter XI of the Act. This means, the insurer has to pay to the third parties only on account of the fact that a policy of insurance has been issued in respect of the vehicle, but the insurer is entitled to recover any such sum from the insured if the insurer were not otherwise liable to pay such sum to the insured by virtue of the conditions of the contract of insurance indicated by the policy.

22.To repeat, the effect of the above provisions is this: when a valid insurance policy has been issued in respect of a vehicle as evidenced by a certificate of insurance the burden is on the insurer to pay to the third parties, whether or not there has been any breach or violation of the policy conditions. But the amount so paid by the insurer to third parties can be allowed to be recovered from the insured if as per the policy conditions the insurer had no liability to pay such sum to the insured.

23. It is advantageous to refer to a two-Judge Bench of this Court in *Skandia Insurance Company Limited v. Kokilaben Chandravadan*, (1987) 2 SCC 654. Though the said decision related to the corresponding provisions of the predecessor Act (Motor Vehicles Act, 1939) the observations made in the judgment are quite germane now as the corresponding provisions are materially the same as in the Act. Learned Judge pointed out that the insistence of the legislature that a motor vehicle can be used in a public place only if that vehicle is covered by a policy of insurance is not for the purpose of promoting the business of the insurance company but to protect the members of the community who become suffers on account of accidents arising from the use of motor vehicles. It is pointed out in the decision that such protection would have remained only a paper protection if the compensation awarded by the courts were not recoverable by the victims (or dependants of the victims) of the accident. This is the *raison d'être* for the legislature making it prohibitory for motor vehicles being used in public places without covering third-party risks by a policy of insurance.

24. The principle laid down in the said decision has been followed by a three-Judge Bench of this Court with approval in *Sohan Lal Passi v. P. Sesh Reddy*, (1996) 5 SCC 21.

25. The position can be summed up thus:

The insurer and the insured are bound by the conditions enumerated in the policy and the insurer is not liable to the insured if there is violation of any policy condition. But the insurer who is made statutorily liable to pay compensation to third parties on account of the certificate of insurance issued shall be entitled to recover from the insured the amount paid to the third parties, if there was any breach of policy conditions on account of the vehicle being driven without a valid driving licence..... ”

24. Again in *United India Insurance Company Ltd. v. Lehu & Ors.*, (2003) 3 SCC 338, in para 18 of the report the Supreme Court referred to the decision in *Skandia*, *Sohan Lal Passi* and *Kamla* and held that even

where it is proved that there was a conscious or willful breach as provided under Section 149(2)(a) (ii) of the Motor Vehicle Act, the Insurance Company would still remain liable to the innocent third party but may recover the compensation paid from the insured. The relevant portion of the report is extracted hereunder:

“18. Now let us consider Section 149(2). Reliance has been placed on Section 149(2)(a)(ii). As seen, in order to avoid liability under this provision it must be shown that there is a “breach”. As held in Skandia and Sohan Lal Passi cases the breach must be on the part of the insured. We are in full agreement with that. To hold otherwise would lead to absurd results. Just to take an example, suppose a vehicle is stolen. Whilst it is being driven by the thief there is an accident. The thief is caught and it is ascertained that he had no licence. Can the insurance company disown liability? The answer has to be an emphatic “No”. To hold otherwise would be to negate the very purpose of compulsory insurance.....”

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20.....If it ultimately turns out that the licence was fake, the insurance company would continue to remain liable unless they prove that the owner/insured was aware or had noticed that the licence was fake and still permitted that person to drive. More importantly, even in such a case the insurance company would remain liable to the innocent third party, but it may be able to recover from the insured. This is the law which has been laid down in Skandia, Sohan Lal Passi and Kamla cases. We are in full agreement with the views expressed therein and see no reason to take a different view.”

25. The three Judge Bench of the Supreme Court in *National Insurance Company Limited v. Swaran Singh & Ors.*, (2004) 3 SCC 297 again emphasized that the liability of the insurer to satisfy the decree passed in

favour of the third party was statutory. It approved the decision in *Sohan Lal Passi, Kamla and Lehu*. Paras 73 and 105 of the report are extracted hereunder:

“73. The liability of the insurer is a statutory one. The liability of the insurer to satisfy the decree passed in favour of a third party is also statutory.

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105. Apart from the reasons stated hereinbefore, the doctrine of stare decisis persuades us not to deviate from the said principle.”

26. This Court in (MAC APP. No.329/2010) *Oriental Insurance Company Limited v. Rakesh Kumar and Others* and other Appeals decided by a common judgment dated 29.02.2012, noticed some divergence of opinion in *National Insurance Company Limited v. Kusum Rai & Ors.*, (2006) 4 SCC 250; *National Insurance Company Limited v. Vidhyadhar Mahariwala & Ors.*, (2008) 12 SCC 701; *Ishwar Chandra & Ors. v. The Oriental Insurance Company Limited & Ors.*, (2007) 10 SCC 650 and *Premkumari & Ors. v. Prahalad Dev & Ors.*, (2008) 3 SCC 193 and held that in view of the three Judge Bench decision in *Sohan Lal Passi* and *Swaran Singh*, the liability of the Insurance Company vis-à-vis the third party is statutory. If the Insurance Company successfully proves the conscious breach of the terms of the policy, then it would be entitled to recovery rights against the owner or driver, as the case may be.
27. In the circumstances, there is no manner of doubt that the liability of the Insurance Company to satisfy the award in the first instance is statutory. In the instant case, the Appellants filed a Claim Petition impleading

Raghvender Singh, driver(Respondent No.1), Chander Mohan, the registered owner (Respondent No.2) and the insurer National Insurance Company Ltd. During inquiry before the Claims Tribunal, the registered owner and the original owner(Chander Mohan and Ashok Kumar) appeared on 16.01.2005. The registered owner informed the Claims Tribunal by making a statement on oath that he sold RTV No.DL1V-7384 to Ashok Kumar S/o Gokal Mal, R/o O-38, Majnu Ka Tilla on 30.11.2004. Ashok Kumar also made a statement that he had purchased the earlier said RTV from Chander Mohan on 30.11.2004. As far as the third party and insurer is concerned, it is the liability of the registered owner to satisfy the award. The Respondent No.2 Chander Mohan in turn shall be entitled to recover the compensation paid from the transferee and the original owner, that is, Ashok Kumar by initiating independent proceedings against him.

28. The Respondent No.3 National Insurance Company Ltd. in turn shall be entitled to recover the compensation paid to the Appellants from the Respondents No.1 and 2 in execution of this very judgment without having recourse to the independent proceedings.
29. The Appellants would be entitled to costs throughout.
30. The Appeal is allowed in above terms.
31. Pending Applications stand disposed of.

(G.P. MITTAL)
JUDGE

AUGUST 17, 2012

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