IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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F.A.O. No.1230 of 1993
Date of Decision: 04.02.2015

The Oriental Insurance Co. Ltd. ....Appellant

v.

Saroj Bala and others ....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Vinod Chaudhri, Advocate for the appellant.

None for respondent No.4.

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Navita Singh, J.

Respondent No.4 was the owner of the vehicle. Counsel for the appellant submits that despite best efforts, no address of respondents No.1 and 3 and also no legal representatives of respondent No.2 could be traced. The petition before the Tribunal was filed on 24.1.1990 and the appeal is of 1993. The point in the appeal is limited. It is understandable that after the passage of more than 20 years, it is not possible for the Insurance Company to trace the claimants.

In such event, counsel for the appellant has been heard whose interest is not in clash with respondent No.4 and even otherwise, the liability is not disputed.

Copy of the insurance policy has been handed over by counsel for the appellant which is taken on record.

The only point on which arguments were advanced was that under the insurance policy, there was limited liability to the extent of Rs.1,50,000/- as the accident had taken place on 27.7.1989 and the new

Motor Vehicles Act came into force w.e.f. 1.7.1989. Under Section 147 of the new Act, any policy issued with limited liability, which was in force immediately before the commencement of the new Act, was to continue to be effective for a period of four months after such commencement or till the date of expiry of such policy, whichever was earlier. It was so provided in the proviso to sub-Section (2) of Section 147 of the Motor Vehicles Act. The policy was effective till the midnight of 11.9.1989 and, therefore, was to remain in force till 11.9.1989, date of expiry, as it was earlier than the period of four months from the commencement of the Act. In any case, it was valid and in force at the time of accident.

The Tribunal, therefore, erred in holding that the accident having taken place after commencement of the new Act, the policy became redundant. The accident had taken place in the same month when the new Act became effective and, therefore, liability was to remain as per the policy.

The appeal is allowed and it is held that the liability of the appellant- Insurance Company shall be to the extent of Rs.1.5 lac.

(NAVITA SINGH)
JUDGE

February 04, 2015
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