

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO No.1486 of 2008 (O&M)

Date of Decision: 23.04.2015

Ram Kumar and another

.....Appellants

Versus

New India Assurance Co. Ltd. and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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| 1. Whether Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporters or not? | |
| 3. Whether the judgment should be reported in the Digest? | Yes |

Present:- Mr. Rajesh Khandelwal, Advocate,
for appellants.

Mr. R.N.Singal, Advocate,
for respondents.

SHEKHER DHAWAN, J

The present appeal has been filed by driver and owner of the vehicle involved in the accident against award dated 29.04.2008 by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred as 'The Tribunal') whereby 'The Tribunal' awarded compensation and liability was fastened upon appellant-driver-owner and Insurance company was absolved of liability to pay the said amount.

2. Taking the case from undisputed facts that accident took place on 13.05.2006 and claimant Naseeb sought compensation on the ground that he had boarded a TATA 407 truck bearing registration No.HR-39-A-3142 as a helper of his co-claimant Ishwar Singh for loading and unloading four bags of his exercise books, registers and other stationery articles. The said truck

met with accident as the same struck against road side 'kikkar' tree and both claimants sustained injuries. The matter was reported to the police. The Tribunal awarded the compensation.

3. Mr. Rajesh Khandelwal, Advocate learned counsel for appellants-claimants took the plea that 'The Tribunal' fell in error that while absolving the liability of insurance company as claimant were not passengers rather they were travelling with the goods and respondent No.2 was helper of respondent No.3 for loading and unloading four bags of his exercise books.

5. Mr. R.N.Singal, Advocate learned counsel for respondents No.3 took the plea that in this case 'The Tribunal' has rightly exonerated the insurance company as insurance company is liable to pay compensation only in respect of passengers which vehicle is permitted to carry the passengers and not for each and every employee who might be travelling in vehicle concerned. On this point reliance was placed upon judgment of Hon'ble Supreme Court in case **Manager, National Insurance Company Limited Vs. Saju P. Paul and another 2013(2) SCC 41.**

6. I have considered the rival contentions raised by learned counsel for both the parties. As most of the facts are not disputed that both the claimants were travelling in the truck bearing registration No.HR-39-A-3142 which met with accident. As per claimants they were travelling in the truck for loading and unloading articles. Identical matter had gone before Hon'ble Three Judges Bench of Hon'ble Supreme Court in case **Hanumanagouda Vs. United India Insurance Co. Ltd. and others 2014 ACJ 681** and Hon'ble Supreme Court observed that as per provisions of Section 147 (1) (b) (i) read with IMT 17, Person accompanying the goods in transit for purpose of delivery are also entitled to receive compensation as

they are the persons employed in connections with the operation as in IMT

17. Identical law was laid down by Hon'ble Division Bench of this Court in

case titled **Oriental Insurance Co. Ltd. Vs. Meena Devi and others 2014**

ACJ 17. 'The Tribunal' has completely ignored this fact while passing the award under challenge and absolving the insurance company from making payment of amount of compensation.

7. Resultantly the present appeal is accepted and award dated 29.04.2008 stands modified that all the respondents i.e. driver Ram Kumar and owner Mangat Ram of Tata 407 bearing registration No.HR-39-A-3142 and the New India Assurance Company Limited being insurer are jointly liable to pay the compensation. The amount of compensation shall be paid by the The New India Assurance Company Limited as the vehicle was insured with them on the date of accident.

(SHEKHER DHAWAN)
JUDGE

April 23, 2015
msd