IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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F.A.O No. 5236 of 2012(O&M)
Decided on : February 27, 2015

Shree Ram General Insurance Company ... Appellant

Versus

Soma Bai & Ors. ... Respondents

CORAM : HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Rajbir Singh, for the appellant.

None for the respondents.

Mahavir S. Chauhan, J. (Oral)

Nishan Singh having died in motor vehicle accident caused on account of rash and negligent driving of a jeep bearing registration No.HR-14-D-3525 by Jasvir Singh at about 3:00 pm on 13.04.2011, his legal representatives maintained Claim Application No.35 of 07.06.2011 which, after contest, has been allowed by the learned Motor Accident Claims Tribunal, Mansa (hereinafter referred to as the 'Tribunal') vide award dated 10.05.2012 and compensation amounting to Rs.4,47,000/- has been awarded in favour of the applicants holding appellant – insurer liable to pay the amount of compensation. Only challenge to the impugned award in this appeal brought by the insurer is with regard to the insurer's liability to pay compensation.

It is argued on behalf of the appellant-insurer that the cover note bearing No.075576 relied upon by the learned Tribunal to fasten liability upon the insurer was never issued by the appellant-insurer and, in fact, the book containing this cover note was misplaced and a daily diary report (DDR) was lodged at Police Station Nagpur in this respect, but the learned Tribunal has failed to take note of this aspect of the matter as also of the proven fact that there is no proof of payment of premium by the insured in respect of insurance of the vehicle in question.

Nothing more has been urged.

Factum and manner of occurrence as also quantum of compensation awarded by the learned Tribunal are not in dispute.

As regards the contention raised on behalf of the appellant it needs to be referred to the impugned award wherein learned Tribunal has very specifically held that daily diary report has not been proved as per law of evidence and its author has been withheld from the witness box. RW-2 Sanjeev Kumar examined on behalf of the appellant has admitted that the aforestated cover note belongs to the appellant-insurance company, premium has been correctly mentioned therein and stamps appearing on the cover note are original stamps of the appellant-insurer. He has no knowledge of the circumstances under which the daily diary report 'Mark – A' was lodged as he has never been to Nagpur. He has also admitted that insurance business of the company is being run through agents who issue cover notes to customers after charging the premium. Learned counsel for the appellant has not been able to show anything to the contrary. In the absence of proof of daily diary report with regard to stated misplacement of the book containing blank cover notes the contention raised on behalf of the appellant cannot be countenanced.

Dismissed.

No costs.

[Mahavir S. Chauhan]
Judge

February 27, 2015
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