IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2698 of 2015
Date of Decision: April 23, 2015

Shri Ram General Insurance Company Limited .. Appellant

vs.

Devbati and others .. Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. M.B. Jain, Advocate for the appellant.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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Kuldip Singh J.

Insurance Company has filed the present appeal against the Award dated 05.12.2014 passed by the Motor Accident Claims Tribunal, Mewat (in short 'the Tribunal').

In this case, on 17.12.2013, when Jag Ram @ Pappu was going on his motorcycle along with Devi Lal from village Sohna to Ferozepur Namak. At about 10.00 p.m., when he reached near village Ghasera, a trailor No.HR-38M-5677, being driven by Jakar Khan-respondent struck against the motorcycle. As a result of the accident, both Jag Ram @ Pappu and Devi Lal received injuries. Jag Ram later on succumbed to injuries. FIR in this regard was registered at the instance of Devi Lal.

The Tribunal after recording the evidence of both the parties, awarded compensation to the tune of ₹15,52,000/- on account of death of Jag Ram @ Pappu.

The Insurance Company challenged the impugned Award on the following two grounds:

1. The future prospects were wrongly allowed.
2. While recovery rights has been given to the Insurance Company, the owner was not asked to furnish the security for recovery of the amount, which the Insurance Company will have to pay.

Taking up the first contention, I am of the view that though the matter is pending before Hon'ble the Supreme Court and the same has been referred to the larger Bench, but the authority of "***Rajesh and others vs. Rajbir Singh" 2013 (3) RCR (Civil) 170,*** has not been set aside so far. Therefore, future prospects cannot be disallowed, merely on the ground that the matter has been referred to the larger Bench.

Regarding seeking the security from the insured, it is found that right to recovery arises only when the Insurance Company will pay the compensation. If the compensation is paid, the Insurance Company will have recovery rights and in place of seeking the security, it can straight away move before the Executing Court for attachment of the property of the owner/driver for recovery of the amount. No other point has been raised.

It being so, the present appeal is dismissed.

The statutory amount of ₹25,000/- deposited along with the present appeal by the appellant be remitted to the Tribunal for disbursement to the claimants.

(KULDIP SINGH)
JUDGE

April 23, 2015
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