

REFER TO REPORTER

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
FAO-5562-2013 (O&M)

Date of Decision: May 8, 2015

Shri Ram General Insurance Company Ltd.

...Appellant

Versus

Soma Rani and others

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Tajender K. Joshi, Advocate,
for the appellant.

Mr. Vikas Kumar Gupta, Advocate,
for Mr. Vikram Bali, Advocate,
for respondent Nos. 1 to 4.

NARESH KUMAR SANGHI, J (Oral)

CM-23430-CII-2013:

Prayer in this civil miscellaneous application is for
condoning the delay of 85 days in filing the appeal.

After hearing learned counsel for the parties and going
through the contents of the application, which is duly supported by
an affidavit, delay of 85 days in filing the appeal is condoned. Civil
miscellaneous application stands disposed of.

FAO-5562-2013:

Present appeal has been filed by Shri Ram General Insurance Company Limited, challenging the award dated 30.4.2013, passed by learned Motor Accidents Claims Tribunal (Ad hoc) Fast Track Court, Hoshiarpur (for brevity, 'the Tribunal').

Learned counsel for the appellant submits that once it was proved that the driver of the offending vehicle was not holding a valid driving licence at the time of accident, in that eventuality the insurance company of the offending vehicle could not be held liable to indemnify the owner of the offending vehicle. It was also submitted that insurance company cannot be directed to first pay the compensation to the claimants and thereafter recover the same from the driver and the owner of the offending vehicle.

Learned counsel for respondent Nos. 1 to 4 submits that the matter is no longer *res integra*. The said issue came up for consideration before Hon'ble the Supreme Court and a reference was sent to a larger Bench in the matter of **National Insurance Company Limited v. Parvathneni and another (SLP (Civil) No. 22444 of 2009)**. The said reference was declined while the question of law was kept open by a 3-Judge Bench of Hon'ble the Supreme Court vide order dated 17.9.2013. He further submits that in view of order dated 17.9.2013 passed in the matter of **Parvathneni and**

another (supra), the present appeal *sans* merit and liable to be dismissed.

Learned counsel for the appellant could not controvert the submission raised by learned counsel for respondent Nos. 1 to 4.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

There is no dispute with regard to the death of Happy, aged about 22 years, in a motor vehicular accident. There is also no dispute with regard to amount of compensation awarded to the claimants. The only issue on which the appeal has been filed by the appellant insurance company is that the driver of the offending vehicle was not holding a valid driving licence on the date of the accident and, as such, the appellant insurance company could not be directed to first pay the amount of compensation and thereafter recover it from the owner and the driver of the offending vehicle. The said issue was referred to the larger Bench of Hon'ble the Supreme Court in the matter of **Parvathneni and another (supra)**, which was kept open vide order dated 17.9.2013.

Even otherwise, in the matters of **Pepsu Road Transport Corporation v. National Insurance Company, 2013**

(4) R.C.R. (Civil) 273; Jawahar Singh v. Bala Jain and others, 2011 ACJ 1677; The New India Insurance Company v. Darshna Devi and others, 2008 (2) R.C.R. (Civil) 86; Oriental Insurance Co. Ltd. v. Zaharulnisha and others, 2008 (4) ACC 781; and New India Assurance Co. Ltd. and others v. Dyal Singh and others, 2012 ACJ 1091, Hon'ble Courts have held that even if it is found that the driver was holding a fake or invalid driving licence, in that eventuality the insurer of the offending vehicle can be directed to satisfy the award and thereafter recover the same from the driver and owner of the offending vehicle.

In view of above, there is no force in the present appeal and the same is hereby dismissed.

**(NARESH KUMAR SANGHI)
JUDGE**

May 8, 2015
Pkapoor