IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.1434 of 1999 (O&M).
Date of Decision: 11.03.2016.

National Insurance Company Limited ....Appellant.

VERSUS

Harjinder Kaur and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. R.M. Suri, Advocate for the appellant.

Mr. Vikas Mohan, Gupta, Advocate for respondent No.3.

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SNEH PRASHAR, J.

By way of this appeal the appellant-insurance company assailed the award dated 29.04.1999 passed by Motor Accident Claims Tribunal, Amritsar (for short, "the Tribunal") in MAC Case No.53 of 1995 by virtue of which claimants-Harjinder Kaur and Balbir Singh (respondents No.1 and 2 herein) were awarded compensation to the tune of Rs.1,56,000/- on account of death of their mother Charan Kaur, due to the injuries suffered in a motor vehicular accident.

The relevant facts are that on 20.11.1994, Charan Kaur, who was standing at the bus stand opposite Darshan Singh Pheruman Memorial College for Women, G.T. Road, Rayya, awaiting arrival of the bus, was hit

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by truck No.PUA-6331 (hereinafter referred to as the "offending truck") because of its rash and negligent driving by Gurdial Singh alias Dial Singh (respondent No.3). She died in Guru Nanak Dev Hospital, Amritsar on 02.12.1994. First Information Report No.99/94 was registered against the said respondent.

A petition invoking the provisions of Section 166 of the Motor Vehicles Act, 1988 (for short, "the Act of 1988") claiming compensation was filed by Harjinder Kaur-minor daughter and Balbir Singh-minor son of deceased Charan Kaur against driver, owner and insurer (respondents) of the offending truck, which was partly allowed and an amount of Rs.1,56,000/- was allowed to the claimants as compensation. Respondents were directed to pay the compensation within two months, failing which the petitioners were held entitled to interest at the rate of 12% per annum from the date of application till realization. All the respondents including respondent No.3 (appellant herein) were held jointly and severally liable for payment of the compensation.

Feeling aggrieved with the award dated 29.04.1999, the appellant-insurance company filed this appeal.

The submissions made by Mr. R.M. Suri, learned counsel for the appellant and Mr. Vikas Mohan Gupta, learned counsel for respondent No.3 have been heard and record perused.

Learned counsel for the appellant argued that learned Tribunal gravely erred in holding that on the day of accident the offending truck was duly insured. The Investigating Officer of the company Tarsem Lal stepped

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into the witness box as RW1 and testified that the cover note shown to be issued on 17.11.1994 was ante dated. It was, in fact, issued on 21.11.1994 i.e. the date on which the premium for insuring the truck was received by the insurance company. The injured mischievously got the vehicle insured after the accident. Since apparently fraud had been played, the insurance company was not liable to indemnify the insured.

The argument of learned counsel for the appellant is devoid of merit. The findings of learned Tribunal regarding effectiveness of the insurance policy are as under:-

> *"At the time of arguments, learned counsel for the respondent cited 1990(2) P.L.R. (Supreme Court) page 144, The New India Assurance Co. Ltd. vs. Ram Dayal and others, in which it is held that policy of insurance taken on the day of accident, its effectiveness is from the commencement of the date. From the evidence on record, I find that the insurance premium was paid on 17.11.1994 and the insurance policy is Ex.R6. Accident took place on 20.11.1994. In view of the citation cited above by learned counsel for respondent No.2, it is clear that the effectiveness of the insurance takes place from the commencement of the date and as per insurance policy, now it cannot be said that it is done afterwards and is not a valid policy. The agent is appointed by the Company and the Development Officer is also of the Insurance Company. If they have not complied with any instructions, the insured cannot be held responsible for that."*

Learned counsel for the appellant failed to demonstrate any misreading of misappreciation of evidence by learned Tribunal while recording the above findings. As per the date mentioned on the insurance

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cover note it was issued on 17.11.1994. The insurance premium was also shown to have been paid on the same date whereas the accident took place on 20.11.1994. If at all the agent or the development officer of the insurance company had done something wrong or had failed to comply with the instructions, it was an internal matter of the insurance company. As far as the contract of insurance was concerned that was complete.

Thus, there being no merit in the appeal, it is hereby dismissed.

(SNEH PRASHAR)
JUDGE

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