IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.3765 of 2010 (O&M)
Date of decision : 08.02.2016

The New India Assurance Company Ltd.

......Appellant

Versus

Parveen Kaur and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. V. Ramswaroop, Advocate for appellant.

Mr. G.S. Jaswal, Advocate for respondent No.4.

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DARSHAN SINGH, J.

The present appeal has been preferred by the New India Assurance Company Ltd. against the award dated 22.03.2010, passed by learned Motor Accidents Claims Tribunal, Ludhiana (hereinafter called the 'Tribunal') vide which the claim petition filed by the claimants under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter called the 'Act') for grant of compensation on account of death of Jagtar Singh in the motor vehicular accident, which took place on 06.04.2007 has been allowed and the compensation to the tune of Rs.2,88,000/- along with interest @ 6% per annum from the date of filing the petition till realisation has been allowed.

2. The appellant-Insurance Company has preferred this appeal challenging the liability fastened upon it by the learned Tribunal.

3. I have heard Mr. V. Ramswaroop, Advocate, learned counsel for the appellant, Mr. G.S. Jaswal, Advocate, learned counsel for respondent No.4 and gone through the paper-book carefully.

4. Learned counsel for the appellant-Insurance Company contended that the insurance policy was obtained by respondent No.1-M/s Glim Industries through its Proprietor, who has sold the offending vehicle to deceased Jagtar Singh vide affidavit dated 05.02.2007 but no information was given to the appellant-Insurance Company about the purchase of the vehicle within the prescribed period. This fact only came to the knowledge of the appellant on verification of the case through its investigator. Thus, he contended that there was no privity of contract between the appellant-Insurance Company and deceased Jagtar Singh. Thus, the appellant-Insurance Company was not liable to pay the amount of compensation.

5. On the other hand, learned counsel for respondent No.4 contended that the accident has taken place during the validity of the insurance policy. As per Section 157 of the Act, there will be deemed transfer of the policy and the company shall be liable to pay the compensation.

6. I have duly considered the aforesaid contentions.

7. This fact is not disputed that the insurance policy issued by the appellant-Insurance Company was valid at the time of the accident. So, mere this fact that no intimation was given to the Insurance Company about the transfer of the vehicle will not render the said insurance policy invalid and it cannot claim that it stood absolved of liability on that ground as there will be the deemed transfer of the insurance policy in case of transfer of vehicle. The three-Judges Bench of Hon'ble Apex court in case ***Mallamma (dead) By L.Rs. Vs. National Insurance Co. Ltd. and others 2014(2) RCR (Civil) 617*** has laid down as under:-

> *"14. In view of the above finding, it can be discerned that on the date of accident, the ownership of the tractor stood transferred from Gangadhara to Jeeva Ratna Setty. In addition to that, a perusal of the 'Schedule of Premium' extracted above shows that an amount of Rs.15-00 has been paid as premium "for L.L. to persons employed in connection with the operation and/or loading of vehicle (IMT 19)".*
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> *15. In view of the above discussion we are of the considered view that as on the date of accident, the deceased workman was in the course of employment of Jeeva Rathna Setty in whose name the ownership of the vehicle stood transferred and the said vehicle was covered under a valid insurance policy, the High Court ought not have simply brushed aside the decision of the Commissioner fastening joint liability on the Insurance Company in the light of the deeming provision contained in Section 157 (1) of the M.V. Act."*

8. Again in case ***Managing Director, K.S.R.T.C. Vs. New India Assurance Co. Ltd.and Anr. 2015(4) RCR (Civil) 938***, the Hon'ble Apex Court held as under:-

> *"25. Apart from that what is provided under Section 157 of the Act of 1988 is that the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred*

in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer. Even if there is a transfer of the vehicle by sale, the insurer cannot escape the liability as there is deemed transfer of the certificate of insurance."

It was further laid down :-

"26. Now, we come to the question of exclusion of contractual liability under second proviso to Section 147(1). When we read provisions of Section 147 with Section 157 together, it leaves no room for any doubt that there is deemed transfer of policy in case of transfer of vehicle. Hence, liability of insurer continues notwithstanding the contract of transfer of vehicle, such contractual liability cannot be said to be excluded by virtue of second proviso to Section 147(1) of Act of 1988."

9. The aforesaid ratio of law laid down by the Hon'ble Apex Court is a complete answer to the contentions raised by learned counsel for the appellant. Thus, there is no illegality in fastening the liability to pay the compensation upon the appellant-Insurance Company.

10. Resultantly, the present appeal is without any merits and the same is hereby dismissed.

08.02.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**