IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3770 of 2012 (O&M)
Date of decision: 23.02.2016

National Insurance Company Ltd.

...Appellant

Versus

Sumit Kumar and others

...Respondents

FAO-3771 of 2012 (O&M)
Date of decision: 23.02.2016

National Insurance Company Ltd.

...Appellant

Versus

Vivek Tyagi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashwani Talwar, Advocate for the appellant.

Mr. Rakesh Bakshi, Advocate
for respondent Nos1 in FAO No.3770 of 2012 and
for respondent Nos.1 and 2 in FAO No.3771 of 2012.

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JITENDRA CHAUHAN, J.

These two appeals have been directed against the impugned award dated 15.02.2012, passed by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short, 'the Tribunal'), vide which the learned Tribunal has awarded

Rs.16,400/- on account of injuries suffered by respondent No.1-Sumit and Rs.1,88,000/- on account of death of Ghanshyam. The appeals are being disposed of by this common judgment.

The learned counsel for the appellant informs that during the pendency of the present appeals, the entire payment of the compensation has been released in favour of the claimants. The learned counsel refers to Annexure A1, the insurance policy and contends that it is an Act policy which covers only the third party liability, whereas, claimants were being passengers of the vehicle are not covered under this policy. He cites ***National Insurance Company Ltd. VS. Balkrishnan and another.*** The relevant para of the same reads as under:-

> *"In view of the aforesaid factual position, there is no scintilla of doubt that a "comprehensive/package policy" would cover the liability of the insurer for payment of compensation for the occupant in a car. There is no cavil that an "Act Policy" stands on a different footing from a "Comprehensive/Package Policy". As the circulars have made the position very clear and the IRDA, which is presently the statutory authority, has commanded the insurance companies stating that a "Comprehensive/Package Policy" covers the liability, there cannot be any dispute in that regard. We may hasten to clarify that the earlier pronouncements were rendered in respect of the "Act Policy" which admittedly cannot cover a third party*

risk of an occupant in a car. But, if the policy is a "Comprehensive/Package Policy", the liability would be covered. These aspects were not noticed in the case of Bhagyalakshmi (supra) and, therefore, the matter was referred to a larger Bench. We are disposed to think that there is no necessity to refer the present matter to a larger Bench as the IRDA, which is presently the statutory authority, has clarified the position by issuing circulars which have been reproduced in the judgment by the Delhi High Court and we have also reproduced the same."

In view of the settled position, the present appeals are allowed and the appellant is granted the recovery rights from respondent Nos.2 and 3 in FAO No.3770 of 2012 and from respondent Nos.3 and 4 in FAO No.3771 of 2012.

23.02.2016 **(JITENDRA CHAUHAN)**
ashok **JUDGE**