IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1511 of 2015 (O&M)
Decided on: 23.08.2016

Shiv Singh and another

....Appellants

Versus

Shri Ram General Insurance Company Limited and othes

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Vikram Singh, Advocate
for the appellants.

Mr. M.B. Jain, Advocate
for respondent No.1.

REKHA MITTAL, J.

The present appeal has been filed by the driver and owner of the offending vehicle motorcycle No.HR-52B-0916 against the award dated 03.12.2013 passed by the Motor Accident Claims Tribunal, Palwal (in short 'the Tribunal') whereby compensation has been awarded in favour of the claimants. The driver and owner have been held jointly and severally liable to pay compensation whereas the insurer (Shri Ram General Insurance Company Limited) was exonerated of its liability to pay compensation.

Reply to CM No.4215-CII of 2015, filed in the Court, on behalf of respondent No.1 is taken on record.

Counsel for the insurance company has fairly informed the Court that cover-note (Annexure A-1) annexed with CM No.4215-CII of 2015 was got verified and it has been found that the same was issued by the insurance company in respect of vehicle No.HR-52-B-0916 (motorcycle in question), valid from 16.07.2010 to 15.07.2011. The occurrence in question took place on 06.09.2010 in regard whereof FIR No.307 dated 08.09.2010 was registered in Police Station Hathin. As the offending vehicle stood insured with respondent No.1 and the contract of insurance was in force on the date of occurrence, respondent No.1 is liable to indemnify the insured *qua* compensation allowed in favour of the claimants and as a consequence, the finding recorded by the learned Tribunal in para 19 of the award while deciding Issue No.3 exonerating the insurance company of its liability to pay compensation is set-aside and the findings are modified that respondents No.1 to 3 (in the claim petition) are held to be jointly and severally liable to pay compensation.

Counsel for respondent No.1 has submitted that as the cover-note has been placed on record in the appeal and the same was not produced before the Tribunal, liability to pay interest on the compensation assessed by the Tribunal may not be passed on to the insurer.

Counsel for the appellants, on the other hand, has submitted that as the insurance company is liable to indemnify the injured for any loss suffered by him due to the accident, in discharge of its contractual obligation, the insurance company cannot avoid its liability to pay interest.

As the insurance company has the liability to indemnify the insured in all respects, plea of the insurer to escape its liability to pay interest from the date of petition is misconceived and untenable. Analyzed from another angle, as the amount of compensation has not been paid by the insurer till date and has been used by the insurance company for its business purpose, etc., it has the liability to pay interest. That being so, contention raised by counsel for insurance company is devoid of merit and is rejected.

The appeal stands disposed of in the aforesaid terms.

(REKHA MITTAL)
JUDGE

23.08.2016
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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No