

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**FAO No.240 of 2016 (O&M)
Date of decision : 17.05.2016**

ICICI Lombard General Insurance Company Ltd.

.....Appellant

Versus

Mohit Kumar 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. Amrinder Singh Sidhu, Advocate for appellant.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellant-ICICI Lombard General Insurance Company Ltd. (respondent No.3 in the claim petition) against the award dated 15.09.2015, passed by the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the 'Tribunal'), whereby respondents No.1 & 2-claimants have been awarded compensation to the tune of Rs.9,32,880/- on account of death of Smt. Gianwati, the mother of the claimants, in the motor vehicular accident which took place on 03.03.2013.

2. Learned counsel for the appellant-Insurance Company contended that the driver and owner of the vehicle did not appear to contest

the claim petition and they were proceeded against ex parte. He contended that the driver and owner of the vehicle have not placed on record the driving licence of the vehicle. He contended that as per Section 134 (c) of the Motor Vehicles Act, 1988 (for short the 'Act') it was the duty of the driver to supply the information to the Insurance Company with respect to the particulars of his driving licence. The said statutory duty has not been performed either by the owner or the driver of the vehicle. Thus, he contended that the learned Tribunal has wrongly fastened the liability to pay the amount of compensation upon the appellant-Insurance Company.

3. I have duly considered the aforesaid contentions.

4. The driver and owner of the vehicle were proceeded against ex parte before the learned Tribunal. It is an admitted fact that the appellant-Insurance Company has not summoned the driver or the owner in its evidence to bring on record the driving licence. The appellant-Insurance Company has also not moved any application to the learned Tribunal for giving any direction to the driver or the owner of the vehicle for production of the driving licence, nor any notice has been given by the appellant-Insurance Company to the driver and owner of the vehicle to supply the copy of the driving licence and both of them have remained ex parte before the Tribunal. Thus, no steps have been taken by the appellant-Insurance Company to show that respondent No.4 the driver of the vehicle had no valid driving licence at the time of the accident.

5. The appellant-Insurance Company cannot avail the benefit of Section 134 (c) of the Act without adopting the proper procedure. This

Court in case ***Jagmohan Singh Vs. Devraj Saini and others, 2014 ACJ***

919 has laid down as under:-

“Section 134 of the Act cast a duty on the driver in case of accident to give on demand by a police officer any information required of him. Section 134 (c) of the Act provides that a driver shall give information in writing to the insurer which has issued the certificate of insurance, the details of insurance, name, date of accident, the name and particulars of driving licence. The said Section 134 (c) is therefore a procedure which an Insurance Company shall invoke in order to obtain the details of driving particulars of the driver. Without putting the process in place, the Insurance Company cannot be heard to contend before a Tribunal that by the fact that the driver remained ex parte, it must be taken that he did not have a valid driving licence. Nothing was brought on record to show that the Insurance Company had issued the notice and there had been no response from either the driver or the owner that inevitable conclusion has to be that the Insurance Company did not discharge the onus of proof which was on the insurer to establish the violation of terms of policy.”

6. The Hon’ble Himachal Pradesh High Court in case ***National Insurance Company Ltd. Vs. Changa Ram and others FAO No.217 of 2009 decided on 04.09.2015*** has laid down as under:-

“8. At this stage, the learned counsel for the appellant/insurer argued that the insured had not complied with the mandatory provisions of Section 134(c) of the Act. Section 134(c) of the Act is not a part of Chapters X to XII of the Act, which deal with granting of compensation on ‘no fault liability’ and ‘fault liability’. Section 134 pressed into service by the learned counsel for the insurer/appellant falls in Chapter VIII of the Act, which deals with ‘control of traffic’. Therefore, by no stretch of imagination, compliance of Section 134(c) can be made a ground for denying

relief to the insured. Moreover, granting of compensation is a social legislation, which mandates that the compensation should reach to the victims of a vehicular accident as early as possible without succumbing to the niceties and technicalities of law and procedural wrangles and tangles.

9. Having said so, the plea raised by the learned counsel for the insurer/appellant is rejected, being afterthought and misconceived.”

7. In view of the consistent rule of law laid down in the cases referred above, the protection of Section 134(c) cannot be availed by the appellant-Insurance Company to evade its liability to pay the amount of compensation.

8. Thus, I do not find any merit in the present appeal and the same is hereby dismissed.

17.05.2016

sunil yadav

(DARSHAN SINGH)
JUDGE