IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 4049 of 2016
Date of decision: 19.12.2016

The Oriental Insurance Company Limited ....Appellant

Versus

Smt. Rajesh Devi and others ....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. D P Gupta, Advocate
for the appellant

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Rekha Mittal, J.

The present appeal directs challenge against award dated 30.03.2016 passed by the Motor Accidents Claims Tribunal, Narnaul (in short, the Tribunal) whereby compensation has been awarded in favour of Smt. Rajesh Devi and others in regard to death of Pintu Singh in a motor vehicular accident that took place on 14.11.2014.

The sole submission made by counsel for the appellant-insurance company is that as driver of the alleged offending vehicle i.e. Truck bearing No. HR 69A/9764 was not holding a valid driving licence, insurance company is entitled to be exonerated of its liability to indemnify the insured or in the alternative entitled to be given recovery right against the insured after discharging its liability qua the claimants.

I have heard counsel for the appellant, perused the paper book particularly the award and annexures A1 to A3, exhibited documents before the Tribunal.

Undisputedly, the insurance company had not examined an official from the office of Licencing Authority, Nagaland to prove that licence possessed by driver of the offending vehicle was not issued by the said authority, therefore, the same is not valid. The insurance company marked certain documents, namely report purported to be prepared by Regional Transport Officer, Mokokhung, Nagaland addressed to Shri Udai Singh Yadav, Advocate (Ex.R-10), a communication purported to be issued by the Transport Commissioner for information of the General Public dated 01.08.2014 (Ex.R-11) and an application submitted by Shri Udai Singh Yadav, Advocate under the Right to Information Act, 2005 (Ex.R-12). The insurance Company did not examine even Shri Udai Singh Yadav, Advocate to prove correctness and authenticity of the documents (Ex.R-10 to Ex.R12). That being so, the Tribunal has rightly refused to rely upon the documents to uphold plea of the insurance company that the driver was not possessing a valid driving licence. This apart, as per Ex.R-10, information purported to be sent to Shri Udai Singh Yadav, Advocate in pursuance of his application under the Right to Information Act, 2005, it has been mentioned that as driving licence No. 2515/TV/MHG/10 is not even found on Smart Card Sarathi as per the notification order of Transport Commissioner, Nagaland, driving licence other than Smart Card Sarathi shall be treated as cancelled and invalid. Perusal of the driving licence would indicate that on the extreme right side of the document made available during course of hearing by counsel for the insurance company, date is 1.1.1987. Counsel for the appellant is not in a position to explain what does 1.1.1987 refers to. Taking into consideration that the insurance Company did not examine the relevant witness to discharge onus placed upon the insurer to prove that driving licence possessed by the driver was not a valid one, no error much less illegality can be noticed in the findings of the Tribunal negating plea of the insurance company or denying recovery right against the insurer.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed *in limine*.

(Rekha Mittal)
Judge

19.12.2016
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Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No