IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4269 of 2016(O&M)
Date of decision: 29.07.2016

The Oriental Insurance Company Ltd. ...Appellant

V/s.

Smt. Karuna and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL.

Present: Mr. S.S. Sidhu, Advocate for the appellant.
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__REKHA MITTAL, J. (Oral).__

The present appeal has been directed against award dated 26.04.2016 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (in short 'the Tribunal') whereby compensation has been awarded in favour of Karuna and others in regard to death of Prince in a motor vehicular accident that took place on 12.11.2014.

Counsel for the appellant has raised two fold submissions to challenge liability of the appellant-Oriental Insurance Company Limited (hereinafter to be referred as 'the Company') and in the alternative prayed for giving recovery rights against owner of the offending vehicle.

The first submission made by counsel is that the vehicle in question was being plied without any route permit. Another submission made is that the driving license of Balbir Singh-respondent No. 5 was issued by licensing authority at Manipur but there is no evidence as to how Balbir Singh could obtain license from Manipur. It is urged that driving license in favour of Balbir Singh was therefore, issued in violation of the provisions of Section 9 of Motor Vehicles Act, 1988 (in short 'the Act'). He further argued that as Balbir Singh was not holding a valid driving license, and for want of route permit the insured has committed breach of the terms and conditions of insurance policy, entitling the company to recover amount of compensation after discharging liability qua the claimants.

I have heard counsel for the appellant, perused the paper book particularly the award passed by the Tribunal.

Perusal of the award shows that the learned Tribunal framed issue No. 4 with regard to valid driving license in the following terms: -

> "Whether the respondent No. 2 has violated the terms and conditions of the insurance company (sic) as respondent No. 1 was not holding a valid and effective driving license? OPR."

There is nothing on record suggestive of the fact that the insurance company ever called-upon the insured to produce a route permit for its verification. The driver of the offending vehicle was not examined by the company in order to prove as to how Balbir Singh violated any provisions of the Act by obtaining the licence from Manipur. The company did not produce any positive evidence to prove that the insured is guilty of violating any of the terms and conditions of the contract of insurance and as such, contention of the appellant cannot be accepted that either the company is not liable to pay compensation or it is entitled to recovery rights against the owner after payment of compensation to the claimants/respondents. In view of the above, I do not find any reason to interfere in the findings recorded by the learned Tribunal holding insurance company jointly and severally liable to pay compensation.

The appeal being devoid of merit, is, accordingly, dismissed.

(REKHA MITTAL)
JUDGE

July 29, 2016
Divyanshi

Whether speaking/reasoned	**:**	**Yes/No**
Whether reportable	**:**	**Yes/No**