In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 2.9.2016

FAO No. 5044 of 2016

Bharti Axa General Insurance Co. Limited

---Appellant

versus

Smt. Santosh and others

---Respondents

FAO No. 5045 of 2016

Bharti Axa General Insurance Co. Limited

---Appellant

versus

Jagan Singh and others

---Respondents

FAO No. 5046 of 2016

Bharti Axa General Insurance Co. Limited

---Appellant

versus

Ajit and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Rajbir Singh, Advocate
for Mr. Sanjeev Goyal, Advocate
for the appellant

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Rekha Mittal, J.

This order will dispose of FAO Nos. 5044, 5045 and 5046 of 2016 as these involve identical questions of law and fact for adjudication. For brevity, the facts are taken from FAO No. 5044 of 2016.

The sole submission made by counsel is that as the cheque with regard to payment of premium issued by agent of the company (consolidated cheque bearing no. 004371 for Rs.1,28,018/-) got dishonoured on its presentation to the bank for want of 'sufficient funds', the insurance company is not liable to pay compensation as there was no valid contract of insurance at the relevant time. In support of his contention, he has relied upon Section 64 VB of the Insurance Act, 1938.

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

The Tribunal in para 19 of the award has held that the vehicle involved in the accident was admittedly insured with respondent No. 3, this fact is proved vide insurance policy Ex. R-3. On a pointed query raised by the Court, counsel for the appellant has not disputed that the insured paid premium to agent of the company but the agent issued a consolidated cheque in regard to premium received from various insured that got dishonoured on its presentation to the bank. It has also not been disputed that on dishonour of the cheque, the policy in question was never cancelled by the insurer.

Any misdeed /mischief or illegality committed by agent of the insurer can neither cause loss to the insured nor enure to benefit of the insurer to deny its liability to pay compensation under the policy admittedly issued by the insurer. In this view of the matter, contention raised by counsel for the appellant is devoid of merit, liable to be rejected and ordered accordingly.

For the foregoing reasons, the appeals fail and are accordingly dismissed in limine. As the appeals have been decided on merit, the applications filed by the appellant for condonation of delay in filing and refiling of the appeals are of academic relevance only. However, the appellant may take recourse to appropriate proceedings, in accordance with law, against its agent.

(Rekha Mittal)
Judge

2.9.2016
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No