

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

RA-CR No.296-CII of 2015 in

FAO No.1418 of 2006

Date of decision: 16th December, 2016

Kanta Devi and others

... Appellants

Versus

Sawran and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.N. Singal, Advocate
for the applicant/respondent No.3.

Mr. Kulvir Narwal, Advocate
for the non-applicant/appellants.

FATEH DEEP SINGH, J.

This application for review in terms of Section 114 read with Order 47 Rule 1 and Section 151 CPC has been moved by the applicant/Insurance Company which happens to be respondent No.3 in the claim petition which was disposed off by the learned Motor Accident Claims Tribunal, Jhajjar through Award dated 21.09.2005 and subsequently had emerged in order dated 09.02.2015 of this Court passed in FAO, wherein this Court had held in the orders sought to be reviewed that respondent No.1-Driver, respondent No.2-Owner and respondent No.3-the present applicant/National Insurance Company Ltd./the insurer of the offending vehicle were jointly and severally liable to pay the compensation amount.

Contentions of learned counsel for the applicant/Insurer are that the orders in FAO have been wrongly passed on misconceived notion and thus, needs to be reviewed as the vehicle in question at no point of time was under insurance cover of the applicant and which fact is duly refuted by learned counsel for the non-applicant/appellants who has sought to rebut the submissions of learned counsel for the applicant/insurer.

Appreciating the submissions, it was the own stand of the parties before the learned Tribunal as well as before this Court at the time of disposal of the FAO that respondent No.1-Sawran was the driver, respondent No.2-Jaswant Kaur was the owner and respondent No.3-National Insurance Company Ltd., the present applicant, happened to be the insurer of the offending vehicle and there is a categorical finding that the evidence of the claimants has never been rebutted and remained unchallenged. The applicant had been appearing before this Court as well as before the learned Tribunal which passed the Award and had not taken up the plea that offending vehicle at the time of accident was not insured with them and had only raked up a plea as to the legality, validity and effectiveness of the driving license of the driver of the offending vehicle and rather it was their stand that the vehicle was not being driven as per terms and conditions of the insurance policy, thus, invariably suggesting that there exists an insurance policy and which fact otherwise was not proved by any means. More so, no issue

was ever framed pertaining to this contention which is sought to be raked up after so many years, at a much belated stage without there being sufficient reasonable reasons behind it and there is no categorical findings to this effect either returned by the learned Tribunal or raked up before this Court at the time of decision of the FAO at any point of time. Apparently, the applicant/insurer does not claims that they have challenged the orders passed in FAO of this Court or any order passed thereon could be brought to the notice of this Court. The application for review certainly is not only meritless and hopelessly barred but is also based on imaginary and frivolous grounds which are totally devoid of any merit, rather the applicant by this assailment has sought to unduly waste the time of the Court and raked up all these pleas which had earlier never been taken up necessitating dismissal of the instant application with special order as to costs of Rs.10,000/- which shall be deposited with the High Court Legal Services Authority within a period of one month from today.

(FATEH DEEP SINGH)
JUDGE

December 16, 2016

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No