IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107+320 **FAO No. 1754 of 2000 (O&M)**
Date of decision: 22.09.2017

The Oriental Insurance Co. Ltd. ...Appellant

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Neeraj Khanna, Advocate for the appellant.

Mr. Sidharth Sanwaria, DAG, Haryana.

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AVNEESH JHINGAN, J. (ORAL)
CM No. 19567-CII of 2017

This is an application for placing on record the copy of Insurance Policy (Annexure A-1) as well as exemption from filing certified copy thereof.

For the reasons mentioned in the application, the same stands allowed and copy of Insurance Policy(Annexure A-1) is taken on record.

CM stands disposed of accordingly.

FAO No. 1754 of 2000

The present appeal has been filed by the Insurance Company against award dated 03.02.2000 passed by the Motor Accident Claims Tribunal, Karnal(for short, 'The Tribunal').

The only issue raised in the present appeal is that Insurance Company is only liable to pay ₹ 6,000/- for the damage to the vehicle of the 3rd party.

The bare facts necessary for adjudication of the present issue is that on 29.12.1995, there was an accident between truck bearing registration

No. HR-32-1321 and bus bearing registration No. HR-05A-7704. The accident occurred near Village Katleri. FIR No.374 dated 29.12.1995 was registered at police Station Nissing, District Karnal. In the accident the bus was damaged heavily and number of persons received injuries.

A claim petition under Section 166 of the Motor Vehicles Act, 1988(for short, 'The Act') was filed by Haryana Roadways Karnal claiming compensation for the damage to its bus. The Tribunal after considering the evidence and witnesses awarded a sum of ₹ 3, 48,102/- along with interest at the rate of 12% per annum.

I have heard learned counsel for the parties and perused the paper-book.

During the pendency of the appeal the learned counsel for the appellant moved an application under Section 151 for placing on record the Insurance Policy which was exhibit R-1 before the Tribunal. Learned counsel for the appellant contended that this policy was before the Tribunal and the same has not been considered. The issue that to what extent the Insurance Company was liable to pay damages in an accident of 3rd party claim has not been decided. He has pleaded that their liability is restricted only ₹6,000/-.

Learned counsel appearing for Haryana Roadways has argued that they have to be compensated for the damages either it may be the Insurance Company or the owner or the driver.

In facts and circumstances of the case, I deem it appropriate that the matter be remanded back to the Tribunal only on the issue of determining the liability. The Tribunal will consider the policy and the statutory provisions. After providing reasonable opportunity to the parties concerned it would decide this issue.

The appeal is disposed of. The matter is remanded back to the Tribunal only for determination of the liability.

(AVNEESH JHINGAN)
JUDGE

September 22, 2017
Poonam (II)

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*