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

1 FAO-4653-2007
Date of decision: 12.09.2017

United India Insurance Company Ltd. .... Appellant

Versus

Shakuntla and others ..... Respondents

2 FAO-4654-2007

United India Insurance Company Ltd. .... Appellant

Versus

Angoori Devi and others ..... Respondents

3 CR-313-2008

United India Insurance Company Ltd. .... Petitioner

Versus

Anil Kumar and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Gopal Mittal, Advocate
for the appellant.

None for respondents No.1 to 4.

Mr.Lalit Garg, Advocate
for respondent No.7.

Mr. Rajeev Godara, Advocate
for respondents No.8 and 10.

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Avneesh Jhingan, J.

These are three cases, two FAOs and one CR filed against the award dated 04.09.2007 passed by Motor Accidents Claims Tribunal (Fast Track Court), Hisar (hereinafter referred to as the 'Tribunal').

This case was a burnt case and the record has been reconstructed from the salvaged record and the copies supplied by the counsel subject to just exception.

On 22.04.2002, there was an accident between Maruti Gypsy bearing registration No.PIQ-8056 being driven by Hari Ram and a car bearing registration No.AP-09E-7731 being driven by Ramesh Kumar. Unfortunately, in the accident, Vikas 10 years old boy lost his life and Pawan Kumar and Anil Kumar received injuries. FAO No.4653 of 2007 has been filed against the legal heirs of Pawan Kumar who was injured in the said accident. FAO No.4654 of 2007 has been filed against the parents of Vikas who lost his life in the said accident and CR No.373 of 2008 has been filed against Anil Kumar, who received injuries in the said accident. The present cases have been filed by United India Insurance Company (hereinafter referred to as the 'Insurance Company').

The only issue raised in all the three cases is that the people traveling in the Maruti Gypsy were not covered under the Act Policy which was covering the said vehicle. No other issue has been raised.

I have heard the learned counsel for the parties.

A perusal of the award passed by the Tribunal, it is evident that the issue with regard to the Act Policy has not been dealt with and discussed by the Tribunal. The counsel further relied upon the decision of the Hon'ble

Apex Court in ***National Insurance Company Ltd. Vs. Balakrishnan and another, 2013 AIR (SC) 473 and Bhagyalakshmi and others Vs. United Insurance Co. Ltd., 2009(7) SCC, 148.***

Without expressing any opinion on the merits of the issue, it would be appropriate if the matter is remanded back to the Tribunal to deal with this specific issue after providing opportunity of hearing to the parties concerned.

The Hon'ble Apex Court in ***National Insurance Company's case (supra)*** wherein there was dispute whether the policy was Act Policy or comprehensive/package policy, remanded the matter back to Tribunal to decide the issue. Similarly, in the present case, it would be appropriate to remand the matter back to the Tribunal so that the additional documents or evidence can be led by the parties concerned.

The amount disbursed would not be recovered back and would be subject to the decision of the petitions. All the three cases are disposed of. The case is of the year 2002. It is desirable that the Tribunal will decide the matter expeditiously. The parties are directed to appear before the Tribunal on 24.10.2017.

(AVNEESH JHINGAN)
JUDGE

12.09.2017
anju

Note:

1.Whether the order is speaking/reasoned: Yes

2.Whether the order is reportable : No