IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4703 of 2007 (O&M)
Date of Decision: July 26, 2017

Poonam Devi and another

..Appellant(s)

Versus

Oriental Insurance Co. Ltd.

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. R.S. Sangwan, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for the respondent-insurance company.

*****

ANITA CHAUDHRY, J.

On the asking of the Court, Mr. Ravinder Arora, Advocate, who is present in the Court has appeared on behalf of respondent-insurance company to assist the Court.

The appellant is aggrieved by the dismissal of the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Only the copy of the award could be reconstructed. None of the parties could give any material for reconstruction of the record. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

Deceased Ran Singh met with an accident while he was driving a motorcycle. A heavy storm started and the motorcycle hit a tree and he suffered multiple injuries. The deceased was married and was stated to be 23 years old and earning Rs.3,300/- per month. His widow and mother had claimed compensation. The Tribunal noted that DDR had been entered and Ran Singh could not control his motorcycle due to heavy storm. As regards the liability it noted that Ran Singh himself was the owner and no extra premium had been paid. The vehicle was insured only for the damage to the vehicle and third party. The Tribunal decided issue no.4 against the claimant and the finding recorded on issue no.4 reads as under:-

> *"This issue is taken up before issue no. 2, because it can affect the liability to pay the compensation. The learned counsel for the petitioners vehemently argued that from the perusal of insurance policy Ex.R1 it is clear that it was comprehensive. When the policy is comprehensive it also covers the owner of the vehicle. In such a situation, even if Ran Singh was owner of the vehicle the insurance company is liable to pay the compensation. In support of his arguments he placed reliance upon the opinion of our Hon'ble Supreme Cort expressed in <u>Ramashray Singh Versus New India Assurance Co. Ltd. & Ors. II (2003) ACC 706 (SC)</u> and of Hon'ble Madhya Pradesh high Court expressed in <u>Sukhbeer Kaur & Ors. Versus National Insurance Co. ltd. I(2007) ACC 433 (DB)</u>.*
>
> *There is no dispute as far as the opinion expressed by our Hon'ble Supreme Court and Hon'ble Madhya Pradesh High Court is concerned they are based on altogether different*

facts. Unless extra premium is paid covering the liability of the owner, then insurance company cannot be asked to pay compensation. If the owner is not covered by the police then insurance company cannot be asked to pay the compensation. In the present case the owner did not pay the extra premium covering the owner of the vehicle also. So the insurance company cannot be asked to pay the compensation to the LRs of the owner. My these views are fortified by the opinion of the Hon'ble Supreme Court expressed in Criental Insurance Co. Ltd. Versus Jhuma Saha and others, 2007(1) RCR (SC) page 761 and of Hon'ble Karnataka High Court Expressed in Oriental Insurance Company Ltd. Vs. Smt. Kempamani and another, 2004(1) RCR (Civil) page 64 (case laws cited by learned counsel for the respondent). In the present case when extra premium is not paid the insurance company cannot be held to pay the compensation. This issue is hereby decided in favour of the respondent."

I have heard the counsel of both the sides.

The copy of the policy had been placed on record. It is not disputed that the vehicle was insured only for damage to the motorcycle and for third party. There is no reason to take a different view as adopted by the Tribunal.

The appeal is dismissed.

July 26, 2017 **(ANITA CHAUDHRY)**
sunil **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No