IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

680

FAO No.4473 of 2010
Decided on : 07.11.2017

Kulwant Kaur

... Appellant

Versus

Ranjit Singh and another

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.Pardeep Rajput, Advocate
for the appellant.
Mr.Rajbir Wasu, Advocate
for the National Insurance Co. Ltd.

Avneesh Jhingan, J. (Oral)

The present appeal is by the ill-fated mother who lost her young son aged 19 years (Prabhjit Singh). Prabhjit Singh was driving a motorcycle bearing registration No.TPM-3687 along with Manpreet Singh who was the pillion rider were going towards Chattiwind Chowk, Amritsar. When they were near about Chatiwind Chowk, they banged into tractor trolly (in short 'the offending vehicle') as driver of the offending vehicle suddenly applied brakes. As a result of the accident, Prabhjit Singh suffered grievous injuries and lost his life.

2. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by mother of the deceased claiming compensation from the owner and insured of the motorcycle.

3 The Tribunal after appreciating the facts and considering the material before it, awarded a sum of Rs.3,94,000/- along with interest at the rate of 6% per annum.

4 Driving licence of the deceased was not produced before the Tribunal. For this reason, the Insurance company was exonerated. Aggrieved of that, the present appeal has been filed.

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

6 Learned counsel for the appellant has argued that the deceased was having a valid licence but the same was lost at the site of the accident and same could not be produced. He contended that the Tribunal erred in exonerating the Insurance company. The counsel for the respondent argued that there was a breach of conditions of the policy as the driver was not holding a licence, therefore, the Tribunal has rightly exonerated the Insurance Company. He further tried to raise the issue since the deceased had borrowed the motorcycle from someone, therefore, the claimant could not have claimed compensation under Section 163-A of the Act.

7 After hearing the arguments and perusing the record, it is evident that no driving licence of the deceased was placed on record. The mere submission that he was having a driving licence and the same was lost at the site of the accident will be of no help to the appellant. If there was a valid driving licence which was lost, there is a procedure prescribed for getting the duplicate copy of the same. The same could have been followed but no steps have been made. There is no dispute on the legal position that in absence of the valid licence, the Insurance Company will not be liable to pay the compensation. Rather, in such cases depending upon the facts and circumstances, either driver or the

owner or both are liable to pay the compensation.

8 The second issue raised by learned counsel for the Insurance company needs no adjudication in the facts of the present case as the claim petition has been dismissed on the ground of breach of conditions of the Insurance Policy and the award passed by the Tribunal is being upheld.

9 For the reasons mentioned in the above, the appeal is bereft of its merits, and is dismissed.

[Avneesh Jhingan]
Judge

07.11.2017
sd

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No