IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2113 of 2012
Date of Decision.01.09.2017

Reliance General Insurance Co. Ltd. ....Appellant

Vs

Smt. Bhagwati and others ....Respondents

Present: Mr. Arun Sharma, Advocate for
Mr. T.K. Joshi, Advocate
for the appellant.

Mr. Ashok Kumar Jindal, Advocate for
Mr. Sanjay Mittal, Advocate
for respondent Nos.1 to 6.

Mr. M.S. Randhawa, Advocate
for respondent Nos.7 and 8.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appellant-insurance company is in appeal against the finding rendered by the Tribunal on the issue as to whether the insurance company is liable to indemnify the owner or not on two grounds *viz*; (i) the vehicle registered with the Registering Authority was Tata 407 and had been insured for two passengers only i.e. driver and cleaner whereas there were three passengers and (ii) driver of the vehicle had driving licence having granting permission to drive Scooter, Motor Cycle, Car, Jeep and LTV only whereas Tata 407 is a Goods Carriage Vehicle and therefore, does not fall within the definition of Transport Vehicle as defined under Section 2(47) of the Motor Vehicles Act, 1988.

Mr. Ashok Kumar Jindal for Mr. Sanjay Mittal, learned counsel appearing for respondent Nos.1 to 6 and Mr. M.S. Randhawa, learned counsel appearing for respondent Nos.7 and 8 submits that the argument of the insurance company is not only fallacious but against the oral and documentary evidence on record. The unladen weight of Tata 407 is 2550 kg and it will fall within the definition of LMV as unladen weight of a vehicle should not exceed 7500 kilograms to fall within the category of Light Motor Vehicle as per Section 2(21) of the Motor Vehicles Act. The insurance policy was issued for carrying 1+2 passengers and not for 2 passengers only, therefore, third passenger is also covered and would be a third party *viz-a-viz* the insurance company.

Learned counsel for the respondents also submits that the insurance company has satisfied the award. In rebuttal, learned counsel appearing for the insurance company submits that the appeal has been filed seeking recovery rights only against the owner.

I have heard learned counsel for the parties, appraised the paper book and of the view that argument of Mr. Sharma is not tenable and sustainable in the eyes of law, for, registration certificate of the vehicle has been issued in Form 23 under the Central Motor Vehicles Rules, 1989 and under the description of the vehicle mentioned as Tata 407. The examples given in the same with regard to description of vehicle reads as under:-

> *"Brief Description of vehicle Tata 407 e.g. Fiat/Ambassador/ Maruti Car, Tata Goods Vehicle, Ashok Leyland Goods Vehicle, Trailer, Motor Cycle with/without gear, Motor Cycle with side car etc."*

For all intents and purposes, it would be an LMV as per definition in Section 2 (21) having unladen weight of 2550 kg. As regards the other plea of not indemnifying the third passenger, the insurance policy granted permission to the owner to carry three passenger i.e. 1+2 and that is what the Tribunal formed an opinion, therefore, it could not be only driver and cleaner but one more passenger for which owner would be entitled to be indemnified in terms of the insurance policy. It is not the case that the deceased was a 4th passenger and therefore, the insurance company is not onerous to indemnify.

In view of what has been noticed above, I do not intend to differ with the finding rendered by the Tribunal based upon oral and documentary evidence. No ground for interference is made out. The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

September 01, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No