IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.6562 of 2012 (O&M)
Date of Decision:- 10.05.2017

Reliance General Insurance Company Limited ....Appellant

vs.

Kusumlata and others ....Respondents

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CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

Mr. R.K. Girdhwal, Advocate for
Mr. Chanderhas Yadav, Advocate,
for respondent No.1.

Mr. Rahul Sharma, Advocate for
Mr. Salil Bali, Advocate.

Mr. N.S. Pawar, Advocate for
respondent No.3.

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DAYA CHAUDHARY, J.

Appellant-Insurance Company has filed the present appeal to challenge the impugned award passed by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'The MACT') vide which claim petition of respondent No.1 has been allowed and a compensation of ₹ 1,46,000/- has been awarded.

Briefly, the facts of the case as mentioned in the claim petition are that a claim petition under Sections 166 and 140 of the Motor Vehicles

Act, 1988 (hereinafter referred to as 'The Act') was filed by claimant-respondent Kusumlata stating therein that on 15.6.2012, she along with Meenu (petitioner in the connected claim petition before the Tribunal) was travelling from market to their house on their scooty. On reaching near BDO Office, Bahadurgarh, their vehicle was hit by Tata Tempo bearing registration No. HR-46E-0592. Both of them fell down on the road and sustained grievous injuries. The claim petition was allowed vide award dated 26.7.2012. Claimant-Kusumlata was granted total compensation amounting to ₹ 1,46,000/-, whereas, other complainant-Meenu was awarded compensation to the tune of ₹ 1,09,000/-. The award passed by the learned Tribunal has been challenged by the appellant-Insurance Company in the present appeal by raising various grounds.

Learned counsel for the appellant submits that the learned Tribunal has not appreciated the evidence available on record. The driver of the insured vehicle was having driving licence to drive motorcycle with gear and light motor vehicle only. He was not authorized to drive transport vehicle. Learned counsel for the appellant further submits that the appellant-insurance company had placed on record Exhibit R-1, the letter written by Sh. Sanjay Jain, Advocate, to the appellant wherein it was mentioned that the licence of the driver was valid for motorcycle and LMV only. The copy of verification report of licencing authority was also placed on record as Exhibit R-2. At the end, learned counsel for the appellant submits that amount of compensation granted is on the higher side and the appellant-insurance company is not liable to pay compensation to the claimant.

Learned counsel for the claimants submits that similar appeal bearing FAO No. 5886 of 2012 filed by the insurance company against this very accident has been dismissed in which amount of compensation awarded to other injured, namely, Meenu was challenged.

Heard arguments of learned counsel for the appellant as well as learned counsel for the respondents and have also perused the impugned award.

Facts relating to filing of claim petition and awarding of compensation by the MACT are not disputed.

Admittedly, the appellant-insurance company filed FAO No. 5886 of 2012 which has been dismissed on 27.11.2012 by a coordinate Bench of this Court. The relevant portion of said order is reproduced as under:-

> "An accident took place on 15.6.2009 wherein two girls Meenu and Kusumlata suffered injuries. Their scooty was hit by Tata Tempo No.HR-46-E-0592. Tribunal came to the conclusion that accident had occurred due to rash and negligent driving by driver of the offending vehicle. It, thus, awarded compensation of Rs.1,09,000/- to respondent Meenu on the basis of medical bills produced by her. Tribunal also took into account expenses of special diet and attendant charges while assessing compensation. Only plea raised by insurance company is that driver of offending vehicle did not have valid licence. Tribunal, however, came to the

conclusion that the insurance company did not lead evidence to show that driver did not have valid/effective driving licence on the date of accident. I find no ground to interfere in the findings arrived at by the Tribunal. No glaring defect with the award passed has been pointed out. Appeal is, thus, without any merit and is hereby dismissed."

In the present case also, same award passed by the Tribunal has been challenged only on the ground that the driver of the offending vehicle was not having valid driving licence. It has been held in the connected appeal that the insurance company did not lead any evidence to show that the driver was not having valid/effective driving licence on the date of accident and finding no ground to interfere in the findings arrived at by the Tribunal, the appeal filed by the appellant-insurance company was dismissed.

Accordingly, the present appeal is also dismissed by considering parity on merits and grounds taken therein.

May 10, 2017 **(DAYA CHAUDHARY)**
poonam **JUDGE**

Whether speaking/reasoned **Yes**

Whether reportable **Yes**