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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-14565-CII-2017 in/and
FAO-10617-2014 (O&M)
Date of Decision: 01.08.2017

JAGDISH .....Appellant

Vs

PARMILA DEVI & ORS .....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Sanjay Mittal, Advocate
for the applicant/appellant.

Mr. S.K. Arora, Advocate
for the respondent Nos.1 to 4.

Mr. B.K. Bagri, Advocate
for respondent Nos.7 and 8.

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RAJ MOHAN SINGH, J.

[1]. The present appeal has been preferred by the owner of the offending vehicle bearing registration No.HR-47-B-3719 against the award dated 19.08.2014 passed by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal').

[2]. Brief facts are that the claim petition was preferred by the claimants/respondent Nos.1 to 4 for the grant of compensation on account of death of Ram Pukar Pandit in a vehicular accident. Ram Pukar Pandit was travelling in the

offending vehicle and the accident took place due to the rash and negligent driving of the driver of the offending vehicle. When the offending vehicle reached on NH-8 near Sohna T point, Dharuhera, then a bus bearing registration No.RJ-32-PA-0573 came from Rewari side in a rash and negligent manner and also with high speed. Driver of the said bus suddenly took turn towards Sohna Road without blowing any horn or by giving any indicator. As a result of that, the driver of the offending vehicle i.e. HR-47-B-3719 struck the offending vehicle (tempo) behind the bus due to which the offending vehicle turned turtle and the occupants including Ram Pukar Pandit received serious injuries. Ram Pukar Pandit succumbed to his injuries.

[3]. The claim petition was decided against the appellant being owner of the offending vehicle. The Insurance Company was absolved, as it was found from the evidence that the offending vehicle/tempo was a goods vehicle and the deceased Ram Pukar Pandit was travelling in it as a gratuitous passenger. The risk of the passenger was not covered in the insurance policy under Section 147 of the Motor Vehicles Act. Deceased was not treated to be the third party and the risk was not covered in the policy as no extra premium was paid to cover the risk of such passenger.

[4]. Secondly, the Insurance Company was absolved on the

ground that the driver Krishan Kumar was not authorized to drive the offending vehicle in question for want of necessary endorsement of transport vehicle i.e. 'motorcycle with gear, light motor vehicle and tractor'. The driver was not authorized to drive the 'light goods' or 'transport vehicle'. Evidently, the offending vehicle was 'light goods vehicle'. The Tribunal came to the conclusion that since there was no authorization in favour of the driver to drive other than transport vehicle i.e. 'motorcycle with gear, light motor vehicle and tractor', the Insurance Company was also absolved on this ground.

[5]. The aforesaid ground may not be sustainable in the light of decision dated 03.07.2017 passed by the Hon'ble Apex Court in Civil Appeal No.5826 of 2011 titled '*Mukund Dewagan vs. Oriental Insurance Company Limited'*, but so far as the death of gratuitous passenger in the accident involving the offending vehicle is concerned, the Insurance Company cannot be obligated to make good the award in any manner.

[6]. In view of above, I find no ground for indulgence in the appeal filed by the owner of the offending vehicle and the same is accordingly dismissed.

August 01, 2017 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable Yes/No