

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**X-Obj. No.11-CII of 2014 in/and
FAO-2907-2013 (O & M)**

Date of decision: 07.02.2017

Shri Ram General Insurance Company Ltd.

.... Appellant

V/s

Ruksana and ors.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

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

Mr. Siddharth Sharma, Advocate, for Mr. Gopal Sharma, Advocate, for cross-objectors/respondents No. 9 and 10.

Rajan Gupta, J. (Oral)

This order will dispose of an appeal preferred by the Insurance company as well as the cross-objections filed by the driver and owner of the offending vehicle i.e. respondents No.9 and 10. Accident in question occurred on June 16, 2010. Offending vehicle i.e. truck (trolla) was being driven at a high speed. It struck the deceased who sustained the injuries and succumbed to same. His legal heirs preferred a claim before the Motor Accident Claims Tribunal at Faridabad. The Tribunal came to the conclusion that the accident took place due to rash and negligent driving by driver of the offending vehicle. It, thus, proceeded to assess the compensation on the basis of income of the deceased and his dependency. It found that claimants were entitled to compensation of ₹7,77,656/- alongwith

7% interest. It directed the insurance company to indemnify the claimants and later to recover the compensation amount from the driver and the owner of the offending vehicle.

During the course of hearing, a judgment reported as '*Ashok Kumar Khemka and another versus Oriental Insurance Company and others, 2014 (3) RCR (Civil) 1018*', has been cited.

Learned counsel for the parties do not dispute the ratio of said judgment. According to the same, there is no requirement of liability to possess a route permit. The only requirement of Section 9 of the Act is to possess the permit. Admittedly, the offending vehicle had the requisite permit for plying the vehicle on road.

By way of cross-objections, respondents No. 9 and 10 have place on record Annexure A-1 and A-2. Referring to the same, learned counsel for respondents No.9 and 10 submits that the vehicle was granted national permit by the authority. According to him, same could not be placed on record as the respondent No.9 and 10-cross-objectors were proceeded ex parte before the Tribunal.

However, in view of law laid down by this court in **Ashok Kumar Khemka's case (supra)**, that only 'permit' is required as per Section 149, this court does not feel the necessity of opining on the validity of the national permit which has been placed on record by cross-objectors. Besides, on a query being put to learned counsel for the appellant whether any execution proceedings have been initiated by the company against the driver and owner of the vehicle, he submits that he has no clear instructions in this regard.

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Under the circumstances, present appeal is hereby dismissed and the cross-objections are allowed to the extent that respondents No. 9 and 10 would not be liable to indemnify the claimants.

**CM No. 1894-CII of 2014 &
CM No. 13117-CII of 2013**

As main petition has been dismissed on merits, no orders are required to be passed in these applications.

February 07, 2017
sukhpreet

**(RAJAN GUPTA)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No