

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 10.8.2017

FAO No.1641 of 2014(O&M)

ICICI Lombard General Insurance Company Limited

---Appellant

versus

Nagin and others

---Respondents

FAO No.1642 of 2014(O&M)

ICICI Lombard General Insurance Company Limited

---Appellant

versus

Reena Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajbir Singh, Advocate
for the appellant**

**Mr. Sandeep Yadav, Advocate,
for the respondents**

Rekha Mittal, J.

This order will dispose of FAO Nos.1641 and 1642 of 2014 as these have emerged out of award dated 27.11.2013 passed by Motor Accidents Claims Tribunal, Narnaul (in short 'the Tribunal') whereby compensation has been awarded in regard to death of Rahul and Shiva in a motor vehicular accident that took place on 19.02.2011.

With regard to death of Rahul, the Tribunal awarded an amount of Rs.6,21,400/- namely Rs.4,91,400 for loss of dependency and

Rs.1,30,000/- under conventional heads to parents of the deceased. Qua death of Shiva, compensation assessed by the Tribunal is Rs.2,25,000/- towards loss of dependency and Rs.1,30,000/- under conventional heads making total compensation to Rs.3,55,000/-. In both the cases, interest at the rate of 7.5% per annum from the date of petition till realization of compensation has been awarded.

FAO Nos. 1641-1642 of 2014

Counsel for the appellant would contend that offending vehicle involved in the accident is Tata 407 bearing registration No.HR-39-A-0158. As driver of the vehicle did not possess a licence to drive a transport vehicle, the insured is guilty of committing breach of terms and conditions of the contract of insurance entitling the insurance company to be exonerated of its liability or in the alternative asserting its right to effect recovery from the insured after making payment to the claimants.

Counsel representing respondent No.3 (owner of the offending vehicle) has refuted this contention by relying upon the latest judgment of Hon'ble the Supreme Court of India **Mukund Bewangan vs. Oriental Insurance Company Limited Civil Appeal No. 5826 of 2011 with connected cases decided on 3.7.2017** wherein Hon'ble the Apex Court answered the reference in the following terms:-

“A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg. would be a light motor vehicle and also motor car or tractor or a road roller, 'unladen weight' of which does not exceed 7500 kg. and holder of a driving licence to drive class of “light motor vehicle” as

provided in section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg. or a motor car or tractor or road-roller, thus “unladen weight” of which does not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. A licence issued under Section 10(2)(d) continues to be valid after Amendment Act 54/1994 and 28.3.2001 in the form.”

Counsel has further contended that in the case at hand, gross vehicle weight was less than 7500 Kgs., therefore, the driver who was possessing a driving license to drive a light motor vehicle was competent to drive the vehicle in question.

Counsel for the insurance company, in the light of enunciation laid down by Hon'ble the Supreme Court of India in the referred authority, is not in a position to say something in the matter. In view of the above, contention raised by counsel for the appellant with regard to driver of the offending vehicle not holding a valid driving licence at the time of accident is untenable and liable to be rejected.

FAO No. 1641 of 2014

To assail quantum of compensation assessed by the Tribunal, sole submission made by counsel for the appellant is that the Tribunal has adopted a multiplier of 18 as per age of the deceased in place of multiplier according to age of mother of the deceased. The contention raised by counsel for the appellant is not meritorious in the light of judgments of

Hon'ble the Supreme Court of India **Smt. Sarla Verma and others vs.**

Delhi Transport Corporation and another 2009 ACJ 1298 and Munna

Lal Jain vs. Vipin Kumar Sharma 2015(3) RCR(Civil) 447

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly
dismissed.

(Rekha Mittal)
Judge

10.8.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No