In the High Court of Punjab and Haryana at Chandigarh

FAO- 2232 of 2014(O&M)
Date of Decision: 18.8.2017

Shri Ram General Insurance Company Limited

---Appellant

versus

Sunil and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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

Mr. Sumit Gupta, Advocate,
for respondent No. 1

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Rekha Mittal, J.

The insurance company has assailed the award dated 31.10.2013 passed by Motor Accidents Claims Tribunal, Sonipat (in short 'the Tribunal') whereby compensation has been awarded in regard to injuries sustained by Sunil in a motor vehicular accident that took place on 11.4.2011.

The Tribunal has awarded an amount of Rs. 82,600/- for the injuries sustained by the claimant, payable with interest at the rate of 7.5% per annum from the date of petition till realization. Respondent Nos. 1 to 3 have been held jointly and severally liable to pay compensation.

Counsel for the appellant would contend that offending vehicle involved in the accident is Tata Magic bearing registration No.HR-39B-

4350. 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 claimant.

Hon'ble the Supreme Court of India in **Mukund Dewangan vs. Oriental Insurance Company Limited 2017(7) Scale 731** while answering a reference has held, reads thus:-

> "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 raod-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 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 substantiate contention of the appellant. 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. The insurance company shall be jointly and severally liable to pay compensation without any right of recovery against the driver and owner of the offending vehicle.

In view of the above, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

18.8.2017
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No