

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

FAO No.5267 of 2013 (O&M)

Date of decision: 20.11.2017

ICICI Lombard General Insurance Company

...Appellant(s)

Versus

Luxmi Devi and another

...Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

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

Mr. J.S. Chatrath, Advocate
for respondents No.1 and 2.

ANITA CHAUDHRY, J.

This appeal is filed by the Insurance Company aggrieved with the award dated 13.09.2013 passed by the Motor Accident Claims Tribunal, Panchkula.

Learned counsel for the appellant urges that the issue is short and the deceased was owner and the claimants were his legal heirs, claiming compensation under Section 163-A of the Motor Vehicles Act and though there was a Personal Accident Cover but it was subject to the conditions and one of them was that the deceased should have had a driving licence but the deceased did not have a driving licence. It was urged that a strange order has been passed by the Court below and it has awarded compensation directing the Insurance Company to pay the amount and has then given recovery rights to the insurance company to recover it from the claimants, who are the legal heirs of the deceased. It was urged that in a petition filed under Section 163-A, the Tribunal below has also

awarded an addition of 30% towards future prospects. It was urged that the claimants are not third party and were not entitled to any amount and at the most, it could be Rs.2 lacs since there was a personal accident cover but subject to verification of the documents and the deceased did not have the licence at the time of the accident and that finding has not been challenged by the claimants.

The impugned award had been stayed by at the time of notice of motion.

The counsel appearing for the respondent supports the judgment.

The claim petition had been filed by the parents of Jatinder Kumar. Jatinder was the owner of the vehicle. The policy covered the owner for a sum of Rs.2 lacs but it was subject to verification of the driving licence. The Tribunal below had found that the deceased did not have the licence. The claimants did not place on record the copy of driving licence, in that case the claimants were not entitled to any amount. The Tribunal below had also gone wrong in awarding future prospects in a claim petition filed under Section 163-A.

The appeal has to be allowed. The award is set aside and claim petition is dismissed. An amount of Rs.25000/- which has been deposited by the Insurance Company, would be returned to them.

November 20, 2017*ps-l***Whether Reasoned/Speaking****Whether Reportable****(ANITA CHAUDHRY)****JUDGE****Yes/No****Yes/No**