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

**FAO No.5409 of 2013(O&M)**
**Date of Decision: 06.11.2017**

The New India Assurance Company Ltd. ... Appellant

Versus

Gurbinder Singh & ors. ... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. Neeraj Khanna, Advocate, and
Mr. Deepak Suri, Advocate,
for the appellant.

Mr. Narinder Pal Sharma, Advocate,
for respondent No.1.

**RAJIV NARAIN RAINA, J.(Oral)**

The solitary point raised in this appeal by the Insurance Company is that the offending vehicle held a route permit for Punjab, but the accident took place in the State of Haryana and therefore, there was violation of the terms and conditions of the insurance policy, hence, the insurer was not liable to satisfy the award and indemnify the insured owner of the offending vehicle. This issue has been considered in at least two decisions of this Court in Oriental Isnurance Co. Ltd. v. Meena Variyal and others, Appeal (Civil) 5825 of 2006, decided on 2.4.2007 and Raj Kumar v. Ajay Kumar and another, 2011 ACJ 1.

This Court was of the view in the citations that such defence is not tenable for insurance Company to plead that there is no valid permit for plying the vehicle in Haryana and the consequence may have other legal implications but the insurer has to stay confined to the defences which are permissible under Section 145(2) of the Motor Vehicles Act, 1988. This

Court held that if the only purpose of permit is validated, the Insurance company can seek exclusions of liability for an accident resulting from use of motor vehicle. If there is a valid insurance cover then the Insurance Company shall become liable. The Insurance Company cannot be absolved of its liability to pay the compensation to the claimants on the ground that the offending vehicle was plying in the State of Haryana without any valid permit at the relevant time. Undisputedly, the driving licence in question was valid on the day of accident.

Apply the decision in New India Assurance Company Ltd. v. Smt. Anuradha and ors., (2013-4) PLR 594, by a coordinate Bench of this Court granting recovery right to the Insurance Company to satisfy 3rd party claims against the driver/owner may not be the proper thing to do, since there is no specific term in the present insurance policy which speaks of "route permit". There is difference between route permits for plying such stage carriages and other permits such as All India Permits/National Permits which fall in a different category of cases and, therefore, there is no merit in this appeal and the same is, hereby, dismissed.

In view of the above, recovery rights cannot be granted in this case to the appellant-Insurance Company as pressed by its learned counsel and as a result, the entire liability to pay compensation as awarded will have to be shouldered by it. The owner and driver are absolved of liability.

On the quantum of compensation awarded there is no factual dispute and the issue is not pressed with any seriousness and accordingly the correctness of the assessment is affirmed and the award is upheld as fair and proper dispensation at the hands of the Motor Accident Claims Tribunal.

In view of the above the appeal raises no sustainable defect in reasoning or a triable ground in first appeal from order and the same being devoid of merit the appeal stands dismissed, with no order as to costs.

**06.11.2017** **(RAJIV NARAIN RAINA)**
monika **JUDGE**

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