

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

F.A.O No. 545 of 2015

Date of decision:- 12.07.2017

Reliance General Insurance Co. Ltd.

...Appellant

Versus

Smt. Devi & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Subhash Goyal, Advocate
for the appellant.

Mr. Sandeep Kotla, Advocate
for respondent No. 1.

RITU BAHRI J.

C.M. No. 1491-CII-2015

For the reasons mentioned in the application, delay of 313 days
in filing of the appeal is condoned.

The application stands disposed of.

F.A.O No. 545 of 2015

This appeal is by the insurance company disputing the liability
foisted upon it by the Motor Accident Claims Tribunal, Panipat (for brevity
'the tribunal'), vide its order/award dated 14.10.2013 whereby the appellant-
Company (for short 'the appellant') was held liable to make the
compensation to the tune of Rs.5,26,000/-.

The claimants alleged that on the night of 29/30.11.2010,
Parveen was coming to his house on Maruti Zen Car No. DL-2CF-5938.
The car was being driven by him at a moderate speed on his left side. When
he reached near Chhabra Hospital on Assandh Road, Panipat, a truck
bearing registration No. HR-38-L-3045 which was being driven by

respondent No. 1 in a rash and negligent manner came from opposite side and caused accident with the car of Parveen. Due to the accident, Parveen received multiple grievous injuries and was succumbed to his injuries. F.I.R was registered against the driver of the truck for causing the accident.

On notice, respondent No. 1 and 2 appeared and filed their written statement pleading therein that no accident had taken place with car of Parveen. They further denied for want of knowledge as to whether any injuries were received by Parveen in the accident. Rather they stated that the deceased was himself driving the car in a drunkard condition. He was himself responsible for the accident.

Respondent No. 3-Insurance Company filed separate written statement and on merits stated that the petition of the claimants is not maintainable as respondent No. 1 and 2 have violated the terms and conditions of the insurance policy. Respondent No. 1 was not holding the valid driving license at the time of the accident. Further the petition is bad for non-joinder of necessary parties as the driver, owner and insurer of Maruti Zen Car are necessary parties. No claim with regard to any accidental damage caused to truck has ever been lodged by its owner with the Insurance Company.

From the pleading of the parties, following issues were framed:-

“1. Whether the deceased died in the motor vehicle accident, due to rash and negligent driving of respondent No. 1 of the vehicle bearing registration No. HR-38L-3045? OPP

2. Whether the claimants are entitled to be compensated by the respondents on account of death of deceased Tara Chand in the motor vehicle accident, if yes how much and from whom? OPP

3. *Whether respondent No. 1 has infringed the conditions of the insurance policy, if so what its effect?*

OPR3

4. *Relief.”*

The learned Tribunal recorded the findings on issue No. 1 in favour of the claimants and against respondent No. 3 on the ground that the offending truck was recovered from the spot and was taken into possession by the Investigating Officer. The driver of the truck was also arrested and F.I.R in this regard was also registered. Respondent No. 1 has also admitted that he has been facing trial before the learned Illaqa Magistrate. He has also not denied the accident. Rather he pleaded that the accident took place due to negligent driving of the deceased in a drunkard condition. Further respondent No. 1 has not made any complaint regarding his false implication in the case, which clearly shows that he was driving the tractor in a rash and negligent manner.

With regard to issue No. 3, the learned Tribunal observed that no evidence was led by the Insurance company to prove that any term of condition of the insurance policy was violated by the owner of the insured vehicle. Mere fact that no claim with regard to damage of the insured truck has been lodged by its owner with the insurance company by itself, is no ground to presume that no such accident of the insured vehicle had taken place. Further during cross examination RW2 Sunil Kumar, License Clerk has admitted that the authority letter produced by him does not bear the stamp of the office of Licensing Authority, Mathura. He further admitted that there has been no such endorsement of the competent authority on any part of the register with regard to the date on which it was issued and the date till which it was valid. Thus, respondent No. 3 failed to prove that the

register got produced from the office of RTA Mathura is being maintained in the ordinary course of duty by the officials of the Licensing Authority, Mathura. Further, the petitioner and respondent Nos. 1 and 2 have placed on file the information dated 24.09.2013 Ex PX obtained from RTA Panipat and the copy of renewed driving license Ex PX/1 which clearly shows that driving license of respondent No. 1 stands renewed till 18.09.2005.

Learned counsel for the appellant has vehemently argued that the Tribunal has gone wrong in deciding issue No. 1 and 3 in favour of the claimants, as firstly no accident took place and secondly respondent No. 1 was not holding the valid driving license. Thus, it is crystal clear that respondent No. 1 was driving the truck in a rash and negligent manner and due to which the deceased died in the accident.

Further as per information dated 24.09.2013 Ex PX obtained from RTA Panipat and the copy of renewed driving license Ex PX/1, the driving license of respondent No. 1 stands renewed till 18.09.2005 and thus, respondent No. 1 was holding the valid driving license.

This argument of the learned counsel for the appellant is liable to be rejected, as the offending truck was recovered from the spot and was taken into possession by the Investigating Officer. The driver of the truck was also arrested and F.I.R in this regard was also registered

In view of the above, order/award dated 14.10.2013 passed by the Tribunal does not require any interference by this Court.

The appeal stands dismissed.

12.07.2017

G Arora

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No