IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.8591 of 2014
Date of Decision: 13.09.2017

Sushma **......Appellant**
Vs
Sanjay and another **.....Respondents**

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. S.S. Shekhawat, Advocate
for the appellant.

None for respondent No.1.

Mr. Arun Sharma, Advocate for
Mr. T.K. Joshi, Advocate
for respondent No.2.

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RAJ MOHAN SINGH, J.(Oral)

[1]. This is an appeal against the award dated 20.05.2014 passed by Motor Accident Claims Tribunal, Rohtak, dismissing the claim petition in toto on the ground that Insurance Company was not liable to pay the compensation in respect of liability of the pillion rider when the insured himself was a driver of the offending vehicle.

[2]. Concededly, it is a case of comprehensive policy. Perusal of the policy does not show that the deceased (minor son of the insured) would not fall under the category of 3rd party in the event of accident taking place in the manner as suggested on record.

[3]. IRDA instructions issued on the basis of judgment of Delhi High Court in ***Yashpal Luthra Vs. United India Insurance***

Co. Ltd. and another, 2011 ACJ 1415 have been further reiterated and approved by the Hon'ble Supreme Court in ***National Insurance Company Vs. Balakrishanan, 2013(1) RCR(Civil) 762.***

[4]. In the instant case, mother has filed the claim petition under Section 163-A of the Motor Vehicles Act on account of death of her minor son.

[5]. I am of the view that the claim presented by the mother of the deceased is maintainable under Section 163-A of the Motor Vehicles Act as she was neither insured, nor was driver of the offending vehicle. The comprehensive insurance policy is silent regarding falling of heirs of insured under the category of 3rd party.

[6]. In view of above, I deem it appropriate to set aside the award dated 20.05.2014 passed by Motor Accident Claims Tribunal, Rohtak and remand the case to the Tribunal with a direction to decide the same on merits in view of ***Yashpal Luthra's case (supra),*** which is approved by the Hon'ble Apex Court in ***National Insurance Company Vs. Balakrishanan' case (supra***) in accordance with law.

September 13, 2017. **(RAJ MOHAN SINGH)**
Prince **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No