

In the High Court of Punjab and Haryana at Chandigarh

FAO-5058 of 2017(O&M)
Date of Decision:26.7.2017

Future Generali India Insurance Company Limited

---Appellant

vs.

Deenu and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Amit Kundra, Advocate
for the appellant

Rekha Mittal, J.

The present appeal directs challenge against award dated 31.3.2017 passed by the Motor Accidents Claims Tribunal, Nuh (hereinafter to be referred to as “the Tribunal”).

The sole submission made by counsel for the appellant-insurance company is that as driver of the offending vehicle was not holding a valid driving licence, the insured is guilty of violating terms and conditions of insurance policy, therefore, the appellant is liable to be exonerated of its liability to indemnify the insured or in the alternative is entitled to press for recovery rights against the insured.

I have heard counsel for the appellant, perused the paper book particularly the award.

With regard to question of validity of driving licence, onus of this issue No. 3 was placed upon the insurance company. It has been held by the Tribunal that neither any evidence was led on this issue nor the issue

was pressed by counsel for the insurance company during course of arguments.

Counsel for the appellant has fairly informed that no evidence was adduced by the insurance company to establish that Juned, driver of offending vehicle bearing No. NL-01N-3434 was not holding a valid driving licence. However, counsel for the appellant would contend that the insurance company sought information under Right to Information Act from the office of DTO, Nagaland and as per the information received subsequent to decision by the Tribunal, no record was found available in respect of driving licence No. 33410/TV/T/2012 in the name of Juned. The insurance company has not filed any application for adducing additional evidence nor any such information received under the RTI Act has been placed on record when otherwise, no such information can be taken into consideration unless the other party has been afforded an opportunity to rebut the same. Under the circumstances, the appellant has no case to plead much less to accept that driver of the offending vehicle was not holding a valid driving licence at the time of accident.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

26.7.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No