IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5538 of 2017(O&M)
Date of decision: 8.9.2017

Ram Chander and another ….Appellants

VERSUS

United India Insurance Co. Ltd. and another .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. B.S. Bairagi, Advocate for the appellants.

REKHA MITTAL, J.(Oral)

CM No.17948-CII of 2017

Prayer in this application is for condoning delay of 5 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Ram Chander – appellant No.1, the application is allowed and delay of 5 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No.5538 of 2017

The owner (insured) and driver of offending motorcycle No.HR-20-AA-2758 are in appeal to assail findings of the Motor Accidents Claims Tribunal, Hisar (in short 'the Tribunal') whereby it has been held that Ram Chander son of Sh. Manphool Singh – appellant No.1 did not possess a valid driving licence to drive the vehicle in question and consequently the insured is guilty of committing breach of terms and conditions of the insurance policy entitling the insurance company to press for recovery right against the driver and owner of the offending vehicle.

The Tribunal by taking into consideration provisions of Section 10 of the Motor Vehicles Act, 1988 and by relying upon judgment of Hon'ble the Supreme Court of India **National Insurance Company Ltd. Vs. Annappa Irappa Nesaria and others, AIR 2008 SC 1418** and judgment of this Court **ICICI Lombard General Insurance Co. ltd. Vs. Sumit Kapoor and others, 2014(3) RCR (Civil) 914** has accepted plea of the insurance company that driver of the offending vehicle was not holding a valid driving licence and the insurance company shall be entitled to recover compensation assessed by the Tribunal from respondents No.1 and 2 therein after satisfying the award towards the claimants.

The controversy raised in the present appeal is squarely covered by judgment of Hon'ble the Supreme Court **Oriental Insurance Co. Ltd. Vs. Zaharulnisha and others, 2008(2) RCR (Civil) 913**, judgment of Delhi High Court **Bajaj Allianz General Insurance Co. Ltd. Vs. Akram Hussain and others**, **2012(6) RCR (Civil) 508** and judgment of this Court **United India Insurance Company Ltd. Vs. Meena Devi and others, 2014(42) RCR (Civil) 876**. In view of enunciation laid down in **Zaharulnisha and others' case** (supra), no error much less illegality can be found in findings of the Tribunal that driver of the offending vehicle was not possessing a valid driving licence and the insurance company is entitled to recover the amount of compensation from respondents No.1 and 2 therein after payment to the claimant(s).

No other point has been raised.

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

SEPTEMBER 8, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**
Whether speaking/reasoned : yes/no
Whether reportable : yes/no