

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

FAO No. 2000 of 2007(O&M)

Date of decision: 5.7.2018

Harpreet Singh

.....Appellant

VERSUS

Roop Singh and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Malkeet Singh, Advocate for the appellant.

 Mr. Virinder Shukla, Advocate for respondent No.3.

 Mr. Neeraj Khanna, Advocate for

 Mr. Ravinder Arora, Advocate for respondent No.4.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 20.02.2007 passed by Motor Accidents Claims Tribunal, Ludhiana (in short 'the Tribunal') whereby application for grant of compensation under Section 166 of the Motor Vehicles Act, 1988 (in short 'the Act') in regard to receipt of injuries by the appellant/claimant in a motor vehicular accident that took place on 21.02.2002 has been dismissed in view of findings recorded on issue No.1.

After arguing for some time and referring to the statement of Harpreet Singh – injured, counsel for the appellant would state that he does not press the appeal for grant of compensation by making necessary assessment but the claimant may be allowed compensation of Rs.25,000/- on account of no-fault liability.

Counsel representing the insurance company has submitted that in case the insurance company is fastened with liability, insurance company may be allowed right of recovery against the insured as neither the driver nor owner of the vehicle involved in the occurrence produced on record driving licence of Roop Singh. It is further argued that as soon as the insured failed to discharge her primary obligation for producing the driving licence of the driver, the insurance company becomes entitled to right of recovery. In this context, reference has been made to latest judgment of Hon'ble the Supreme Court **Pappu and others Vs. Vinod Kumar Lamba and another, 2018 (1) PLR 425.**

Counsel representing respondent No.3 (registered owner of the vehicle) would support the award by contending that as the injured has failed to substantiate his plea that accident is the result of rash and negligent driving of the vehicle in question by Roop Singh, its driver, he is not entitled to get any compensation in an application filed under Section 166 of the Act. Another submission made by counsel is that the insured tried her best to get produce driving licence but she was helpless as she was not in possession of driving licence of Roop Singh or a copy thereof.

Be that as it may, even if the claimant has failed to substantiate his plea that occurrence is the result of rash and negligent driving of the driver, insurance company cannot escape liability under Section 140 of the Act that provides for compensation under 'No Fault Liability'. In this context, reference can be made to judgment of this Court **National Insurance Co. Ltd. Vs. Harjit Singh and another, 2016(1) PLR 735.**

A relevant extract from para 3 and 4 of the judgment is quoted thus:-

“3. In a situation where the Insurance Company cannot be made liable under the terms of the policy, there is a minimum liability which the Motor Vehicles Act constitutes under Section 140 where all that has been seen is whether the vehicle that was involved in the accident had been insured with the particular Insurance Company. If it was in a case of injury resulting in permanent disability, the maximum compensation will be Rs.25,000/- and in case of death, the maximum compensation of Rs.50,000/- would require to be paid in terms of the judgment of the Supreme Court in **Eshwarappa @ Maheshwarappa and another Versus C. S. Gurushanthappa and another-2010(8) Scale 263.**

4. The awards of the court below are modified and in FAO No.1245 of 2003, the Insurance Company's liability will be restricted to Rs.25,000/- with interest as granted already and in FAO No.5016 of 2003, it is restricted to Rs.50,000/- with interest as granted already. The awards passed against the Insurance Company over the above amounts stipulated under Section 140 in petition filed under Section 163-A of Motor Vehicles Act are not tenable and set aside.”

In this view of the matter, the claimant shall be entitled to compensation of Rs.25,000/- under ‘No Fault Liability’.

Indisputably, neither the driver nor the insured produced driving licence in order to enable the insurance company to verify its correctness and validity. As the insured failed to provide particulars of the licence possessed by the driver, the insured has failed to discharge her primary obligation which entitles the insurance company to press for right of recovery against the insured after payment to the claimant. The contention raised by counsel for the insurance company in this regard is squarely covered by judgment of Hon'ble the Supreme Court in **Pappu and others' case** (supra).

For the foregoing reasons, the appeal is partly allowed in the terms indicated above.

JULY 5, 2018

'D. Gulati'

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no