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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.7247 of 2010

Date of decision: 9.2.2018

Rajesh Kumar

....Appellant

Versus

Santosh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr.Sandeep Verma, Advocate for respondent No.7.

Mr.Eklavya Darshi, Advocate for respondent No.8.

AVNEESH JHINGAN, J. (Oral)

The appeal has arisen from award dated 6.3.2010 passed by Motor Accident Claims Tribunal, Rewari (for short 'the Tribunal').

The claim petition was filed under Section 166 of Motor Vehicle Act, 1988 (for short 'the Act') by legal heirs of deceased Sanjay Kumar, who lost his life in an accident which took place on 6.3.2007. Sanjay Kumar was going on a motor cycle bearing registration No.UP-25-L/2130, a truck bearing registration No.RJ-32-G/0629 dashed into the motor cycle. Sanjay Kumar sustained fatal injuries and died on the spot.

The Tribunal held that the accident was caused due to the rash and negligent driving of the truck driver i.e. respondent No.6. The truck was owned by respondent No.7 and respondent No.8 was the insurer.

The Tribunal held that since there was no valid route permit of

the truck, there was a violation of the terms of policy and recovery rights were awarded to the Insurer.

Counsel for the appellant has only assailed the recovery rights in the present appeal. He relied upon decision of the Division Bench of this Court in the case of **United India Insurance Company Limited Vs. Subhash Chander** in FAO No.3726 of 2006 decided on 18.8.2006. The same was followed by single Bench of this Court in the case of **Gian Chand Vs. Iqbal Hassan (P&H) 2014 (3) RCR(Civil) 965**. These decisions were followed in FAO No.4768 of 2013 in case of **Shri Ram General Insurance Company Ltd. Vs. Om Parkash and others** decided on 2.2.2018.

In view of the above decisions, counsel for the Insurer could not raise any serious dispute.

In view of the position of law discussed above, the appeal is allowed. The right of recovery given to insurer is set aside. The appellant would take appropriate steps for refund of the amount of Rs.25,000/- deposited for filing of the appeal.

(AVNEESH JHINGAN)
JUDGE

9.2.2018
Meenu

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