

FAO No.7132 of 2011 (O&M)

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

FAO No.7132 of 2011 (O&M)
Date of decision: 26.03.2018

Oriental Insurance Company Ltd.

.....Appellant

versus

Santosh Kumari and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Ashwani Talwar, Advocate, for the appellant.
Mr. I.S. Pabla, Advocate, for respondents No.1 and 2.
Mr. Ashish Gupta, Advocate, for respondent No.4.

RAMENDRA JAIN, J. (ORAL)

Both the sides are *ad idem* that that appeal is to be remanded back to the concerned Motor Accident Claims Tribunal to afford an opportunity to them to adduce evidence in respect of the following issues: -

1. Whether offending vehicle bearing No.HR-38-G-8727 was genuinely insured at the time of accident?
2. What was the date and year of manufacturing of the offending vehicle? Whether the same tallies with the date and year of manufacturing mentioned in insurance policy/cover note relied upon by owner, namely, Charanjeet Singh, of the offending truck?
3. Whether insurance cover note relied upon by owner of the vehicle, namely, Charanjeet Singh s/o Har Mohan Singh and his address were not correct? In other words, whether the insurance cover note relied upon by him was fake or the cover note relied upon by him belongs to some other vehicle?

Accordingly, this appeal is remanded back to the Tribunal to deal

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with and decide the aforesaid controversies and to fix the liability accordingly.

Owner of the vehicle Charanjeet Singh is directed to lead his evidence first to prove that the cover note relied upon by him was not a fake document or that his vehicle on the date of accident was genuinely insured with the appellant-Insurance Company with liberty to Insurance Company to rebut the same.

Both the parties are directed to appear before the Tribunal on 25.04.2018.

It is clarified that in case, any of the contesting parties i.e. owner of the offending vehicle and Insurance Company do not appear on the aforesaid date before the learned Tribunal, in that eventuality, the Tribunal would proceed further in the matter without taking any recourse of issuance of notice to them in accordance with law.

Disposed of.

March 26, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.