IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.85 of 2011
Date of decision:22.01.2018

National Insurance Co.Ltd. ... Appellant

Vs.

Bharat Bansal and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashwani Talwar, Advocate
for the appellant.

Ms. Monika, Advocate, for
Mr. Munfaid Khan, Advocate
for respondent No.2.

AMIT RAWAL J. (Oral)

The appellant-Insurance Company is aggrieved of the award dated 06.10.2010 passed by the Motor Accident Claims Tribunal, Jind (in short 'Tribunal'), whereby, the claimants have been awarded a compensation of ₹50,000/- on account of injuries sustained by them in a motor vehicle accident occurred on 1.5.2009.

Learned counsel appearing on behalf of the appellant-Insurance Company submitted that insurance policy of the vehicle in question had expired on 24.04.2009. The proposal form was given on 01.05.2009 at 11.55 a.m. The inspection was done at 1:34 p.m. The accident had taken place at 3.00 p.m. The policy in question was issued on 02.05.2009 effective from midnight of 02.05.2009. In view of the settled law, the Insurance Company ought to have been absolved by fastening the liability on the owner and driver.

In support of his contention, he relied upon the judgment rendered by the Supreme Court of India in **Export Credit Guarantee Corpn of India Limited vs. M/s Garg Sons International 2013(2) RCR (Civil) 428** to contend that where there have been violation of the terms and conditions of the Insurance Policy, the Insurance Company cannot be permitted to indemnify the insured. With regard to the encashment of payment by cheque or not, he also placed reliance upon the judgment rendered by the Hon'ble Supreme Court in **Deddapaa and others vs. The Branch Manager, National Insurance Co. Ltd. 2008 (1) RCR (Civil) 402.**

Per contra, learned counsel for respondent No.2 has drawn the attention of this Court to the findings rendered in paragraph 18 of the award to contend that the objection of the Insurance Company has been negated on examination of the receipt Ex.R-3 dated 01.05.2009 and thus, urged this Court for affirming the findings under challenge.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Ashwani Talwar.

There is no dispute to the ratio decidendi culled out by the Hon'ble Supreme Court in the aforementioned judgments which are based upon the facts of each case. The facts noticed above are not controverted by both the counsels.

The fact of the matter is that Ex.R3 dated 01.05.2009, whereby, premium has been received by issuing a receipt to the Insured, thus, it was not the fault of the Insured, if the Insurer does not make the policy effective from the midnight of 1/2.5.2009.The entire obligation has been discharged by the insured but the Insurance Company failed to make effective the insurance policy on receipt of premium.

In such circumstances, the argument of Mr. Talwar, seeking absolvement from the indemnification is not tenable and therefore, the same is hereby rejected. Award of the Tribunal is upheld.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

January 22, 2018
savita

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No