IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 08.10.2018

FAO No.4175 of 2012 (O&M)

United India Insurance Co. Ltd. ... Appellant

Versus

Devi and others ... Respondents

FAO No.4290 of 2012 (O&M)

United India Insurance Co. Ltd. ... Appellant

Versus

Hari Singh and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vinod Chaudhri, Advocate for the appellant.

Mr. Umesh Sharma, Advocate for
Mr. Sansar Kundu, Advocate for respondent-Surender Singh.

Mr. Tanuj Kumar, Advocate for respondent-Major Singh.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.4175 and 4290 of 2012 as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from FAO No.4175 of 2012.

CM Nos.17838-37-CII of 2012 in FAO No.4175 of 2012

Heard.

Allowed as prayed for. Delay of 15 days in filing and 07 days in refiling the appeal stands condoned.

Main Case

Counsel for the appellant-insurance company would inform that the appeal has been preferred to assail findings of the Tribunal on issue No.3 with regard to driving licence of Bharat Singh, driver of Indica car bearing No.HR-51J-9620, insured with the appellant. It is argued that in the occurrence dated 07.12.2010, two Indica cars, one insured with the appellant and the other bearing No.HR-02P-6258 with National Insurance Company Ltd. were involved. Ram Chander, driver of Indica car No.HR-

02P-6258, Bharat Singh, driver of Indica car No.HR-51J-9620 and Smt. Maya Devi, one of the occupants of car No.HR-02P-6258 sustained injuries that proved fatal. Two claim applications were preferred by different sets of claimants for grant of compensation in regard to death Maya Devi and Ram Chander. The Tribunal has attributed 50% negligence each to the drivers of both the cars involved in the accident and as a result, the owner and insurer of Indica car No.HR-51J-9620 has been saddled with liability to pay compensation only to the extent of 50%.

It is argued that as neither Surender Singh, owner of the aforesaid Indica car nor legal heirs of Bharat Singh produced licence, if any, possessed by Bharat Singh, the insurance company has been deprived of an opportunity to verify validity and genuineness of licence. It is further argued that as the insured has failed to produce any licence possessed by Bharat Singh, insurance company is entitle to have right of recovery against the insured after payment of compensation to the claimants. In this context, reference has been made to judgment of Hon'ble the Supreme Court **Pappu and others Vs. Vinod Kumar Lamba and another, 2018(1) PLR 425.**

Counsel representing respondent No.5 is not in a position to refute contention of the appellant that no licence of Bharat Singh was produced before the Tribunal. That being so, the insurance company shall have right of recovery against the insured after payment of compensation to the claimants, in the light of judgment in **Pappu and others's case (supra).**

No other point has been raised.

For the foregoing reasons, the appeals are partly allowed in the aforesaid terms. However, nothing stated hereinbefore shall cause prejudice to right of the claimants in appeals preferred by them seeking enhancement of compensation.

08.10.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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