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

**FAO No. 3137 of 2013
Date of decision:- 08.03.2018**

Ranjit Singh ...Appellant

Versus

Vijay Kumar and another ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. J.S. Cooner, Advocate
for the appellant

Mr. D.P. Gupta, Advocate
for respondent No. 2

RITU BAHRI J.

The present appeal has been preferred by the injured-appellant (for short 'the appellant'), against award dated 28.09.2012 passed by the learned Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal') whereby the claim petition filed by the appellant under Section 163-A of the Motor Vehicles Act, has been dismissed.

A bare perusal of the impugned award shows that the claim petition of the claimant has been dismissed on the ground that firstly two DDR's have been registered of the same accident and in both DDR's the version is different. The accident took place on 10.01.2010 and entry in the DDR was made on 11.01.2010. This DDR does not bear the registration number of the motorcycle. It further states that the motorcycle had skidded and the rider had fallen down and sustained injuries. Another DDR dated 17.01.2010 was entered and in this DDR the registration number of the vehicle was entered and the story about the stray cow was introduced.

The second ground on which the claim petition was dismissed that if the legal representatives of a person who was driving the motorcycle after borrowing it from the owner, meets with an accident without involving any other vehicle, he would not be entitled for compensation under Section 163-A of the Act. In the present case, the injured does not own the motorcycle and had borrowed the same from the real owner. It is not a case of owner that the claimant was his employee. The appellant had just stepped in to the shoes of the owner of the motorcycle and the claimant cannot claim compensation.

Learned counsel for the appellant has referred to a judgment of ***New India Assurance Co. Ltd vs. Umesh Kumari and others, 2011(2) ACJ 890*** wherein the appellant filed by the Insurance company was dismissed. The grievance of the Insurance Company was that no liability could be fastened upon the Insurance Company as the deceased was not a third party and the claim petition was filed under Section 163-A of the Act. However, this Court held that premium towards compulsory PA to owner-cum-driver was paid. The deceased was son of owner of the offending vehicle. He has stepped in to the shoes of the owner by borrowing the vehicles with permission of the owner. Thus, the deceased cannot be treated as third party. The deceased being son of the owner has to be termed as owner itself. The comprehensive policy would cover the claim of the claimant.

On the other hand, learned counsel for the Insurance Company has referred to a judgment passed by this Court in ***FAO No. 5947-2012 titled as National Insurance Co. Ltd vs. Hari Mohan and anr, decided on 24.10.2016*** wherein this Court examined the judgment of Umesh Kumari and allowed the appeal filed by the Insurance company and it has been observed that as per the provisions of the General Regulation No. 36, the personal accident cover is available only to the registered owner in person where he/she hold an effective driving licence. The reference to the owner-driver mentioned in the aforesaid regulation must be understood as owner who is capable of driving and who was driving the vehicle at the relevant time. It cannot be understood as owner of driver.

Thus, the person who is not the registered owner of the vehicle is not covered for personal accident cover. Reference has been made to a judgment of this Court in ***Bajaj Allianz General Insurance Co. Ltd vs. Jagdish Singh and others passed in FAO No. 1773-2010 decided on 09.12.2010*** wherein after relying on ***Nigamma's case (supra)*** has taken the contrary view than that taken in ***Umesh Kumari case (supra).*** It has been held that the personal accident cover is only for the owner/driver named in the policy and it cannot extend to any other person. The contract of insurance is a specie of the law of contract and the Insurance Company is entitled to enforce its term. The borrower of the vehicle is not covered even under personal accident cover.

In view of ***Bajaj Allianj case (supra)***, the present appeal stands dismissed.

08.03.2018 (***RITU BAHRI***)
G Arora ***JUDGE***

Whether speaking/reasoned	***Yes***
Whether reportable	***No***