In the High Court of Punjab and Haryana at Chandigarh

FAO- 1918 of 2014(O&M)

Date of Decision: 20.3.2018

Usman

---Appellant

versus

L & T General Insurance Company Limited and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Barjinder Singh, Advocate
for the appellant

Mr. Sanjeev Goyal, Advocate,
for respondent No. 1

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<u>Rekha Mittal, J.</u>

The present appeal directs challenge against award dated 20.12.2013 passed by the Motor Accidents Claims Tribunal, Mewat, Nuh (in short “the Tribunal”) whereby compensation has been awarded on account of death of Akbar in a motor vehicular accident that took place on 7.7.2011.

The instant appeal has been preferred by Usman, owner of offending vehicle bearing No. HR-74-7437 primarily to challenge findings of the Tribunal giving recovery right to the insurance company on account of insured having failed to produce the permit to ply the vehicle in question by relying upon judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Challan Bharathama and others 2004 ACJ, 2094.**

Counsel for the appellant states that he has filed an application under Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure to place on record route permit of the offending vehicle.

Counsel for the parties are ad idem that the present appeal may be disposed of and the matter may be remitted to the Tribunal for deciding the question of permit afresh on the basis of evidence to be led by the parties.

In view of the above, the present appeal stands disposed of. Findings recorded by the Tribunal that the offending vehicle was being plied without a permit are ordered to be set aside and the matter is remitted to the Tribunal for decision on issue No. 4 afresh on the basis of materials already on record and additional evidence to be led by the appellant and evidence in rebuttal by the insurance company. In the meanwhile, the insurance company shall not press for recovery of compensation from the insured even if the amount of compensation has already been paid to the claimants.

Parties through their counsel are directed to appear before the Tribunal on 17.4.2018. The Tribunal is directed to decide the matter within a period of three months from the parties putting in appearance.

Before parting with this order, it is pertinent to mention that as per submission made by counsel for the insurance company, L & T General Insurance Company Limited is no more in existence as the same has merged with HDFC Ergo General Insurance Company Limited. Counsel for the appellant has got no objection if HDFC Ergo General Insurance Company Limited is allowed to contest the proceedings before the Tribunal qua issue No. 4, in the changed scenario.

(Rekha Mittal)
Judge

20.3.2018

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