IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1377 of 2016 (O&M)
Date of Decision: August 30, 2018

Raman Kumar and another ...Appellants

Versus

Sejal Rani and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.S.K.Mamli, Advocate for the appellants.

Mr.S.S.Sidhu, Advocate for respondent No.4 – United India Insurance Company Limited.

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HARINDER SINGH SIDHU, J.

The owner and driver of Motorcycle No.HR-22E-8199 (herein for short 'the offending vehicle') have filed the present appeal challenging the award dated 3.12.2015 passed by the Motor Accident Claims Tribunal, Fatehabad (for short 'the Tribunal'), whereby, liability to pay compensation to injured Sejal Rani has been fastened upon them.

Brief facts as disclosed in the claim petition are that on 7.12.2013, Sejal Rani along with her husband Raman Kumar was going from village Juglan to Fatehabad on the offending vehicle. When they reached just ahead of Badopal Canal, near Hanuman Mandir, it struck with another motorcycle No.HR-20U-4309. As a result of the accident, Sejal Rani suffered multiple grievous and serious injuries on her left leg and arm.

On a claim petition having been filed by Sejal Rani under Section

163-A of the Motor Vehicles Act, 1988, the Tribunal held that the accident had taken place due to use of the offending vehicle, driven by appellant No.1 Raman Kumar *(husband of Sejal Rani)*. It awarded compensation of Rs.1,25,000/- along with interest to the injured, payable by the appellants (driver and owner of the offending vehicle). Respondent No.4 – United India Insurance Company was absolved from its liability to satisfy the award.

The driver *(husband of injured Sejal Rani)* and owner of the offending vehicle have challenged the Award only on the point of their liability to pay the compensation amount. It is argued that since the offending vehicle was insured, the insurer-respondent No.4 was liable to indemnify the loss caused by the vehicle.

Admittedly the policy was an Act only policy. It has been held by Hon'ble Supreme Court in **Oriental Insurance Company Limited vs. Sudhakaran K.V. And others, 2008(7) SCC 428** and **United India Insurance Company Limited vs. Tilak Singh and others, 2006(4) SCC 404**, that in case of an Act only policy, where no additional premium has been paid the risk of the pillion rider would not be covered.

The Ld. Tribunal has considered this issue as under :

> *"It is not disputed that the claimant is the pillion rider and she is the sister-in-law of respondent Anil Kumar – registered owner of the motor cycle bearing registration No.HR-22E-8199. A perusal of the insurance policy Ex.R3, it is evident that no extra premium was paid in respect of the pillion rider. Hon'ble Apex Court in a case titled* ***Oriental Insurance Company Limited vs. Sudhakaran K.V. and others*** *(supra) has held that "the law which emerges from the said decisions, is : (i) the liability of the insurance company in a case of this nature is not extended to a pillion rider of the motor cycle unless the requisite amount of premium is paid for covering his/her risk; (ii) the legal obligation arising under Section 147 of the Act cannot be extended to an injury or death of*

*the owner of vehicle or the pillion rider; and (iii) the pillion rider on a two wheeler was not to be treated as a third party when the accident has taken place owing to rash and negligent riding of the scooter and not on the part of the driver of another vehicle." In the case titled **United India Insurance Company Limited versus Tilak Singh and others** (supra) the Hon'ble Apex Court has held that "In our view, although the observations made in Asha Rani's case, 2003 ACJ 1 (SC), were in connection with carrying passengers in a goods vehicle, the same would apply with equal force to gratuitous passengers in any other vehicle also. Thus, we must uphold the contention of the appellant insurance company that it owed no liability towards the injuries suffered by the deceased Rajinder Singh who was a pillion rider, as the insurance policy was a statutory policy and hence it did not cover the risk of death of or bodily injury to gratuitous passenger."*

So, keeping in view the above legal position and the facts and circumstances of the case, the Insurance Company respondent No.5 is absolved from its liability to satisfy the award. Admittedly, respondent no.3 is the driver and respondent no.4 is the owner of the motor cycle bearing registration No.HR-22E-8199."

The finding of the Tribunal to absolve the insurer – respondent No.5 is based on decisions of Hon'ble Supreme Court. It does not call for any interference.

No other point was raised.

Appeal is dismissed.

August 30, 2018

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No