

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 23.05.2018

(i) F.A.O. No. 4926 of 2015 (O&M)

ICICI Lombard General Insurance Company Limited

.....Appellant

Versus

Bhajan Mukhia and others

.....Respondents

(ii) F.A.O. No. 5334 of 2015 (O&M)

ICICI Lombard General Insurance Company Limited

.....Appellant

Versus

Uday Chand and others

.....Respondents

(iii) F.A.O. No. 805 of 2016 (O&M)

ICICI Lombard General Insurance Company Limited

.....Appellant

Versus

Reshma Rani and others

.....Respondents

(iv) F.A.O. No. 906 of 2016 (O&M)

ICICI Lombard General Insurance Company Limited

.....Appellant

Versus

Parvati Devi and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Mrigank Sharma, Advocate
for the appellant.

Mr. Vikram Bali, Advocate
for respondent No.1 (claimant).

AVNEESH JHINGAN, J.(oral)

This order shall dispose of FAO Nos. 4926 & 5334 of 2015 and 805 & 906 of 2016 as all these appeals are against four separate awards passed by the Motor Accidents Claims Tribunal, Rupnagar (for short 'the Tribunal') vide which somewhat similar relief has been granted in favour of the claimants and against the appellant.

The insurer of the truck bearing registration No.PB-10-Q-9837 has filed these four appeals against the awards dated 16.1.2015, 16.1.2015, 15.5.2015 and 15.5.2015 respectively, passed by the Tribunal.

The litigation is outcome of an accident that occurred on 30.3.2009. Out of the said accident various claims petitions were filed. The Tribunal awarded compensation to the respective claimants holding the Insurance Company i.e. the insurer along with owner and driver liable to indemnify the claimants.

The issue raised in the present appeals is that goods carrying vehicle was being used for carrying passengers which is in clear violation of terms and conditions of the Insurance policy. Hence, the Insurance Company is not liable to indemnify the claimants.

Learned counsel for both the parties agree that similar matter arising out of the same accident had been decided by this Court on 5.3.2014 in **FAO No.7101 of 2011** (ICICI Lombard General Insurance Company Ltd. Versus Dharampal and others) and it has been held that the Insurance Company would satisfy the award at first instance and then recover the same from the owner and driver jointly and severally. It is important to note here that respondents No. 2 and 3 were proceeded ex-parte i.e. owner and driver of the offending vehicle before the Tribunal and here also, no one

appears on their behalf despite service.

Since, the issue has already been decided and it is agreed that the said decision would cover the issue raised in the present appeals, the appeals are allowed in the same terms as in FAO No.7101 of 2011.

23.05.2018
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No