IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.50 of 2015
Date of Decision: 25.05.2018

National Insurance Company Ltd. ....Appellant

Vs.

Harjit Kaur Jassal and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.R.C.Gupta, Advocate, for the appellant.

Mr.Kawaljyot Singh, Advocate, for respondent No.1.

Mr.V.K.Garg, Advocate, for respondent No.3.

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RITU BAHRI, J. (ORAL)

The appellant/National Insurance Company Ltd. has come up in appeal against the Award of the learned Tribunal dated 17.09.2014 on the short ground that respondent No.3/Oriental Insurance Company should have been made liable to make payment to the claimant on account of death of her husband Ram Parkash Jassal as the offending truck No.RJ-13-IG-0775 was insured with Oriental Insurance Company Limited i.e. respondent No.3.

The learned Tribunal has examined the evidence on issue No.1 and given its finding rightly in favour of the claimant as the FIR Ex.P2 was registered on the statement made by Mulakh Raj and the driver appeared as respondent No.1 and admitted that he was driving the truck and he had a valid driving licence at the time of alleged accident. However, this finding of the learned Tribunal has attained finality and no appeal has been filed by the respondent No.3/Oriental Insurance Company. It is not disputed that the liability to make payment of compensation on account of death of husband of the claimant to the Oriental Insurance Company as the offending truck No.RJ-13-IG-0775 was insured with Oriental Insurance Company Limited i.e. respondent No.3 and once the finding that offending truck was negligent on causing the accident then the liability to make payment of compensation on account of damages to the car would be of Oriental Insurance Company i.e. respondent No.3. To this extent the Award is to be modified.

A perusal of the Award further shows that claim with regard to damages of Ford Ikon car bearing No.PB08-AH-1429 was made to the claimant in which deceased Ram Prakash was travelling. As per report of PW-2 who was a surveyor stated that he had assessed the loss of the car mentioned above which was damaged in accident and he has given his report dated 23.06.2012 to the appellant/Company and it was found that car mentioned above was beyond repair and loss of vehicle was assessed as Rs.2,10,000/-. He further stated that the car was insured with the company for the value of Rs.1,60,000/-. Since the car was insured with Oriental Insurance Company and Rs.30,000/- is assessed as salvage and Rs.1,000/- is assessed as excess clause and after deducting the same (Rs.30,000/- + Rs.1,000/-=Rs.31,000) from the value of car (Rs.1,60,000- Rs.31,000/-) Rs.1,29,000/- is awarded to the claimant on account of damages of car.

In view of the above, the Award dated 17.09.2014 is being modified to the extent above and Oriental Insurance Company Ltd./respondent No.3 is liable to make payment of compensation of Rs.1,29,000/- for the loss of damage to the car bearing PB08-AH-1429 to the claimant along with interest as given in the impugned Award.

(RITU BAHRI)
JUDGE

25.05.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No