IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5140 of 2016
Date of Decision: 21.03.2018

M/s Salson Steels Pvt. Ltd. ....Appellant

Vs.

Jaswinder Kaur alias Sukhwinder Kaur and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.R.S.Bajaj, Advocate, for the appellant.

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RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the appellant/owner (for short 'the appellants'), against award dated 07.03,.2015, passed by the learned Motor Accident Claims Tribunal, Jalandhar (for short, 'the Tribunal') vide which recovery rights have been given to the Insurance Company to recovery the amount from driver and owner.

Learned counsel for the appellant submits that at the time of accident, the liability could not be fastened upon the appellant as the truck in question was having a valid goods carriage permit issued by Regional Transport authority, Una (Himachal Pradesh) so it could not be said that vehicle was being plied in violation of any term and condition of the policy.

A perusal of the Award shows that as per Ex.R1 was the 'goods carriage permit' to ply the vehicle in Himachal Pradesh w.e.f. 04.10.2012 upto 03.10.2017 and the accident took place in Punjab which is beyond the limits of Himachal Pradesh. It has been referred by the Hon'ble Supreme Court and Co-ordinate Bench of this Court respectively in the case of

National Insurance Company Ltd.Vs. Chela Bharathamma, 2004, (4)RCR (Civil) 399 and **Partap Singh Vs. National Insurance Company and others FAO No.4922 of 2014 dated 16.07.2014** wherein, it has been observed that it can be a matter of exigency and a sound commercial practice for insurer to make certain that the vehicle is pliable and it has a valid permit. If the owner did not have such a permit, it will be unfair to the insurer to deny what law specially empowers it to take in defence and establish to its benefits. Therefore, in view of the observations made above, the insurance company had a valid defence under Section 149 (2)(a)(i)(c) of Motor Vehicle Act contending that there has been a breach of a specified condition of the policy, it being a condition excluding the use of a vehicle for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is a transport vehicle. Vehicle in question was a transport vehicle that was being plied with a goods carriage permit issued by RTA,Una (HP) and as had been discussed above the said permit made the vehicle to be pliable on all motorable road in H.P. area. In this case, it could not be claimed that the vehicle did not require any permit or that it was not being used in contravention of the terms of route permit which it had. The decision relied upon by the counsel for the respondent owner and the law observed therein was found to be not applicable to the facts of the present case as in that case no route permit was produced by the owner at all which in the case in hand a route permit had been produced that contains conditions and its validity area. As such, learned Tribunal had rightly given a right of recovery to the insurance company. Moreover, the appellant/owner herein did not produce any judgment in support of him.

So in the light of the discussion, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

(RITU BAHRI)
JUDGE

21.03.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No