

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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FAO No.6379 of 2015 (O&M)

Date of decision: 20.07.2018

WANTI AND OTHERS

... Appellants

Versus

DARSHAN SINGH AND ANR.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Govind Rana, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

CM No.20054-CII of 2015

Heard.

Allowed as prayed for. Delay of 9 days in filing the appeal stands condoned.

Main Case

The present appeal directs challenge against award dated 13.02.2015 whereby application for grant of compensation on account of death of Krishan Lal out of use of motorcycle bearing No.HR-06L-3300, driven by the deceased himself, has been dismissed by relying upon judgment of Hon'ble the Supreme court **Ningamma and another Vs. United India Insurance Co. Ltd., 2009(13) SCC 170.**

Counsel for the appellants-claimants would urge that the policy obtained by the insured namely Darshan Singh was a Package Policy and the insured had paid premium of Rs.50/- towards compulsory PA for owner driver. It is further argued that Krishan Lal, borrower of the motorcycle would step into the shoes of owner and is entitled to get compensation by invoking the special contract whereby the insurance company has given compulsory PA for owner driver on payment of premium of Rs.50/-. In support of his contention, he has relied upon judgment of this Court **New India Assurance Co. Ltd. Vs. Karamjit and others, 2014 ACJ 604.**

I have heard counsel for the appellants, perused the paper book particularly the award and judgment of this Court in **Karamjit and others's case (supra)**.

In the referred authority, there is reference to the earlier judgment of this Court **New India Assurance Co. Ltd. Vs. Umesh Kumari and others, 2010(1) PLR 675**. However, in the later judgments, it was noticed that in **Umesh Kumari and others's case (supra)**, this Court has not taken into consideration GR-36 providing for personal accident (PA) cover under motor policy for owner-driver. In a recent judgment passed by this Court **Reliance General Insurance Co. Ltd. Vs. Jaswinder Pal Kaur and others, FAO No.1840 of 2015, decided on 22.08.2017**, on a detailed consideration of various judgments on the issue including **Umesh Kumari and others's case (supra)**, this Court refused to accept plea of the claimants with regard to their entitlement to get compensation under special contract covering owner driver of the vehicle. In this view of the matter, the appellants cannot derive advantage to their contention from the referred authority.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

No order as to costs.

20.07.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No