IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

215 FAO-8526-2014 (O&M)
Date of decision: 10.10.2018

SHRI RAM GENERAL INSURANCE COMPANY LTD ... Appellant

Versus

SHAKUNTLA & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

Ms. Jasleen Kaur, Advocate for
Mr. Saurabh Dalal, Advocate for respondents No.1 to 3.

Mr. CP Tiwana, Advocate for respondent No.4.
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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 13.11.2013 passed by the Motor Accidents Claims Tribunal, Jhajjar whereby compensation has been assessed on account of death of Jagpal in a motor vehicular accident that took place on 26.10.2010.

Insurance company has filed this appeal on the limited question that as the vehicle did not have a route permit, insured is guilty of violating the terms and conditions of policy entitling the insurance company to have right of recovery against the insured after payment of compensation to the claimants.

Counsel for the appellant would submit that though a plea has been raised in the grounds of appeal with regard to non-deduction of income tax but he does not press that ground for the reason that compensation allowed under conventional heads is not in consonance with latest judgments of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** and **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018 decided on 18.09.2018.**

Counsel representing the contesting respondents, on the contrary, would urge that non-possessing of route permit would not contravene the terms and conditions of insurance policy particularly in the circumstances that the vehicle had a permit to ply in the State of Haryana and the accident also took place within the jurisdiction of State of Haryana.

Indisputably, the vehicle in question had a permit to ply on the road. Non-possessing of route permit is not a defence available to the insurer under Section 149(2) of the Motor Vehicles Act, 1988. The vehicle had a permit issued by the State of Haryana and the accident took place within the jurisdiction of State of Haryana. In the given scenario, appellant cannot be heard to say that the insured is guilty of violating the terms and conditions of policy entitling insurance company to press for right of recovery against the insured after payment of compensation to the claimants.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs.

10.10.2018 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No