

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO 9130 of 2014 (O&M)
Date of decision: 03.12.2018

National Insurance Company Limited
versus

.....Appellant

Sunita Devi and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Aman Dhir, Advocate
for the appellant
Mr. Subhash Godara, Advocate
for respondent No. 1

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 11.08.2014 passed by the Motor Accidents Claims Tribunal, Kurukshetra (hereinafter to be referred as 'the Tribunal') whereby compensation has been assessed on account of death of Virender Kalyan in a motor vehicular accident that took place on 17.02.2013.

The Tribunal has awarded compensation of Rs.2,56,500.00 in the light of discussions in para 19 of the award.

The sole submission made by counsel for the insurance company is that as the deceased was a borrower of motor-cycle owned by his father namely Rajbir son of Rati Ram and he stepped into the shoes of insured/registered owner, the insurance company is not liable to indemnify the insured for compensation assessed by the Tribunal. In addition, it is argued that separate premium paid to cover risk of injury or death of owner-driver would not entitle the claimant to seek compensation qua death of her son Virender Kalyan. In support of his contention, he has

relied upon judgment of this Court ***National Insurance Company Limited vs Harjit Singh and another, 2016 (1) PLR 735.***

Counsel representing claimant/respondent No. 1 is not in a position to controvert plea of the insurance company that in the given facts and circumstances, the insurance company cannot be fastened with liability to pay compensation except Rs.50,000.00 under 'no fault liability' in the light of judgment of Hon'ble the Supreme Court in ***Eshwarappa alias Maheshwarappa and another vs. C S Gurushanthappa and another 2010 (8) Scale 263.***

The controversy raised in the present appeal is squarely covered in favour of the insurance company by judgment of this Court ***Reliance General Insurance Company Limited vs Jaswinder Pal Kaur and others*** (FAO No. 1840 of 2015 decided on 22.08.2017) to uphold plea of the insurance company that it is not liable to pay compensation except Rs.50,000.00 under 'no fault liability' in the light of judgment of this Court ***National Insurance Company Limited's*** case (supra) wherein this Court has relied upon judgment of Hon'ble the Supreme Court in ***Eshwarappa alias Maheshwarappa's*** case (supra). Accordingly, the insurance company shall not be liable to pay compensation as assessed by the Tribunal except Rs.50,000.00 payable with interest at the rate of 7.5% per annum from the date of filing of petition till realization.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

03.12.2018
mohan bimbura

(Rekha Mittal)
Judge