IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.Ms. No.4382-4383-CII of 2017 in/and
FAO No.1376 of 2017
Date of Decision: 14.03.2018

Bharti AXA General Insurance Company Limited ... Appellant

Versus

Anjli & ors. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Sanjeev Goyal, Advocate,
for the appellant.

RAMENDRA JAIN, J.(Oral)

CM-4382-CII-2017

For the reasons mentioned in the application, the same is allowed. Delay of 42 days in filing the appeal is condoned.

FAO No.1376 of 2017(O&M)

By way of this appeal, Insurance Company has laid challenge to the impugned award dated 04.10.2016 of the Motor Accident Claims Tribunal, Hisar, (in short 'the Tribunal'), whereby it has been held liable to make payment of compensation of ₹33,61,800/- to respondents No.1 to 3-claimant.

Learned counsel for the appellants *inter alia* contends that it was a clear cut case of contributory negligence. Learned Tribunal failed to appreciate that driving licence of respondent No.4 was not valid for driving a commercial vehicle, because offending tractor at the time of accident was being used for commercial purposes. Therefore, no compensation could have

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been ordered to be paid by the appellant.

Having given considerable thoughts to the submission made by learned counsel for the appellant, I find that the instant appeal is completely devoid of any merit for the reasons to follow.

The plea regarding validity of licence of respondent No.4 has already been dealt with by the Hon'ble Supreme Court in Mukund Dewangan Vs. Oriental Insurance Company Limited, 2017(4) RCR (Civil) 111, wherein it has been held that there was no requirement of any specific endorsement of driving licence to drive commercial vehicle. Therefore, the plea raised in this regard by learned counsel for the appellant is turned down. As far as question of contributory negligence of respondent No.4 in causing accident raised by learned counsel for the appellant is concerned, the same has not legs to stand, inasmuch as no evidence whatsoever was led by the appellant before the learned Tribunal during trial about the contributory negligence of respondent No.4. Therefore, in the absence of any such evidence, learned Tribunal has rightly turned down the argument of the appellant-Insurance Company in this respect.

It is pertinent to mention before dismissal of this appeal that learned Tribunal has erred in not granting any compensation to respondents No.1 to 3-claimant towards future prospectus of the deceased for which they were legally entitled. However, since the appeal of respondents No.1 to 3-claimants is not before me, therefore, this point is left open for consideration.

₹25,000 deposited by the appellant be sent to the learned Tribunal for onward disbursement of the same to respondents No.1 to 3-claimant in accordance with law against proper receipt and identification.

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In view of the discussion made above, this appeal is dismissed.

14.03.2018 **(RAMENDRA JAIN)**
monika **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*

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