IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1267 of 2018(O&M)

Date of decision: 7.12.2018

Reliance General Insurance Co. Ltd. …..Appellant

VERSUS

Shakuntla and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

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REKHA MITTAL, J.

The present appeal directs challenge against order dated 19.12.2017 passed by the Commissioner under the Employee's Compensation Act, 1923 (in short 'the Act'), Rohtak whereby compensation has been allowed on account of death of Subash while driving Truck No.HR-46-B-6590 which was owned by Sandeep – respondent No.5.

The sole submission made by counsel for the appellant is that licence possessed by Subash was not valid, therefore, the insurance company has wrongly been fastened with liability to pay compensation to the claimants by way of indemnification of the insured. To bring home his contention that Subash did not possess a valid licence, he has relied upon copy of information dated 16.12.2014 Ex. R3 appended as Annexure A-1 with the appeal.

Perusal of the impugned order would reveal that the Commissioner by relying upon judgment of this Court **Reliance General**

<u>Insurance Co. Ltd. Vs. Vijay and others, 2017 ACJ 822,</u> has rejected plea of the insurance company that driver did not possess valid licence or insurance company can escape liability to pay compensation.

Indisputably, the insurance company did not examine a witness from the concerned licensing authority of Mokokchung, Nagaland to prove that no such driving licence with particulars available on record was issued by the said authority. The insurance company sought to rely upon a communication purported to be issued by Regional Transport Officer, Mokokchung, Nagaland to one Sachin Gulati. The insurance company even did not examine said Sachin Gulati to prove the information allegedly received under Right to Information Act, 2005 with an opportunity to the claimants or co-respondents of the insurance company to cross examine the witness. In this view of the matter, it can safely be held that insurance company has failed to adduce cogent and convincing evidence to establish its plea that licence possessed by Subash, driver of the vehicle (since deceased) was not valid or the same was fake. That being so, I do not find an error much less illegality in the impugned order, warranting intervention.

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

DECEMBER 7, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no