IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2402 of 2018(O&M)
Date of Decision: 03.05.2018

IFFCO TOKIO General Insurance Co. Ltd. ... Appellant

Versus

Smt. Pinki & ors. .. Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

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

RAMENDRA JAIN, J.(Oral)

By way of this appeal, Insurance Company has laid challenge to the impugned award dated 01.02.2018 of the Motor Accident Claims Tribunal, Panipat, (in short 'the Tribunal'), whereby respondents No.1 to 4-claimant have been awarded compensation of ₹11,10,640/- along with interest @ 7.5%.

Leaned counsel for the Insurance Company has raised following arguments:-

(I) The offending three wheeler was driven in violation of route permit (Ex.R-7). Therefore, no liability of the appellant-Insurance Company could have been fastened by the Tribunal.

(II) The Insurance policy relied upon by respondents No.5 & 6 (driver and owner of the offending vehicle) was ante-dated, surrounded with suspicious circumstances issued by an agent of whose credentiality was doubtful inasmuch as several complaints were made against him. The premium of insurance was also paid after the date of accident. Therefore, the alleged insurance policy would not have been given effect to fix the liability of the Insurance Company.

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.

Undisputedly, according to insurance cover note/insurance policy of the offending vehicle, the same was issued on 01.03.2016 for a period of one year w.e.f. 15.02.2016 to be ended on 14.02.2017. The accident took place on 24.02.2016. Prima facie, it is evident that accident took place during the period of insurance policy. Judicial notice of the fact can be taken that insurance policy is always issued after few days of issuance of the cover note from the local/regional office of the Insurance Company. That may be the reason that insurance policy (Ex.R-3) was issued on the basis of cover note, might have been issued earlier to the accident, by the appellant. Insurance cover note/insurance policy Ex.R-3 might have been issued on 01.03.2016, but it covers the date of accident. Therefore, the insurance policy (Ex.R-3) cannot be termed as ante-dated. That apart, allegations against the credentiality of the agent without any documentary proof are only in the air. Nothing adverse was brought before the learned Tribunal or has been brought before this Court showing that the credentiality of the agent of the appellant-Company was doubtful or he had ever acted detrimental to the interest of the appellant-Insurance Company. In the absence of any such evidence, the conduct of the agent of the appellant-Insurance Company cannot be doubted.

Even otherwise if it is presumed for the sake of argument that credentiality of the agent of the appellant-Insurance Company was doubtful, in that eventuality also, the appellant-Insurance Company cannot be permitted to be escaped from its liability as principal of its agent under law, it is legally bound for the actions of its agent.

There is also no violation of the route permit, inasmuch as municipal limits of a town or cities are always expandible on account of expansion of the cities and population. It does not remain static. It keeps on changing and extending according to the needs of the hour. No cogent and convincing evidence has been led. Document Ex.R-6 clarifies that three wheeler is authorized to be driven as per route permit Ex.R-7 within the municipal area of Gohana plus 5 kms. outside the municipal area. The appellant-Insurance Company has not led any evidence, what to talk of any cogent and convincing, that the place of accident was beyond the limit of the municipal limits or 5 kms beyond it. Mentioning the area of accident in the FIR or other documents as Samalakha does not *ipso facto* falsify the claim of respondents No.1 to 4 in view of the fact that Samalakha and Gohana are nearby towns . Therefore, there may be a possibility that the accident occurred in the area of Samalakha town, but within the limits of Gohana+5kms.

In view of discussion made above, this appeal stands dismissed.

03.05.2018 **(RAMENDRA JAIN)**
monika **JUDGE**

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