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In the High Court of Punjab and Haryana at Chandigarh

FAO-2433 of 2018(O&M)
Date of Decision: 16.8.2018

Reliance General Insurance Company Limited

---Appellant

versus

Karnail Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sanjeev Kodan, Advocate
for the appellant

***

Rekha Mittal, J.

CM No. 10419-CII of 2018

Allowed as prayed for.

Annexures A-1 to A-3 are taken on record on record, subject to just exceptions.

Disposed of accordingly.

FAO No. 2433 of 2018

The present appeal directs challenge against award dated 22.2.2018 passed by the Motor Accidents Claims Tribunal, Kurukshetra (in short "the Tribunal") whereby compensation has been awarded on account of death of Virender Singh in a motor vehicular accident that took place on 4.6.2015 and respondents before the Tribunal including the insurance company have been held jointly and severally liable to pay compensation.

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The sole submission made by counsel for the appellant is that as on the day of occurrence, the vehicle in question was not registered with any registering authority, the insured is guilty of violating terms and conditions of the policy and can press for right of recovery against the insured after payment of compensation to the claimants. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court **Narinder Singh vs. New India Assurance Company Limited and others 2014(5) Recent Apex Judgments 199**. Further reference has been made to judgments of this Court **Ranjeet Singh vs. Parmanent Lok Adalat and others 2017(1) PLR 267, Komal Sharma and others vs. National Insurance Company Limited and another 2017(1) PLR 241** and **Taranjit Kaur vs. Subhash Chand and others 2014(39) RCR (Civil) 127.**

I have heard counsel for the appellant, perused the paper book particularly the award and judgments cited at Bar.

Before adverting to the submissions made by counsel for the appellant, it is appropriate to deal with the judgments relied upon by counsel for the insurance company.

The judgment in **Narinder Singh's case (supra)** has been rendered against the appellant by Special Leave to Appeal against the judgment and order dated 12.4.2013 passed by the National Consumer Disputes Redressal Commission, New Delhi. The judgments passed by this court in **Ranjeet Singh's case (supra)** and **Komal Sharma and others' case (supra)** are based upon judgment of Hon'ble the Supreme Court in **Narinder Singh's case (supra)**. All these cases do not pertain to grant of compensation under the Motor Vehicles Act, 1988 (in short “the Act').

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Section 149 of the Act deals with duty of insurers to satisfy judgments and awards against persons insured in respect of third party risks. Sub Section 2 of Section 149 of the Act provides for the defences available to the insurance company, detailed in clause (a) and (b) of Section 149(2) of the Act. Perusal of clauses (a) and (b) makes it evident that no such defence is available that the insurance company can avoid liability to pay compensation in case the insured vehicle was not registered on the date of occurrence. In this view of the matter, I find myself unable to accept contention of the appellant that either the insurance company is entitled to be exonerated of liability or can press for right of recovery against the insured after payment of compensation to the claimants.

To be fair to the appellant, counsel has made a vain attempt to argue that the insured in guilty of concealment of a material fact as he did not disclose that the vehicle was not registered after the temporary registration stood expired. Counsel, in response to a query, would fairly inform that no such plea was specifically raised in the reply but the insurance company examined Dushyant Singh, Legal Claim Manager RW2 to prove that on the basis of previous policy commencing from 2.6.2014 to midnight of 1.6.2015 issued by the Oriental Insurance Company Limited vide policy No. 215391/31/2015/4219 and taking the said policy as correct, Reliance General Insurance Company Limited issued cover note bearing No. 316000006315 on 1.6.2015 valid from 2.6.2015 to midnight of 1.6.2016.

Indisputably, the insurance company did not raise a plea that the policy is void on the ground that it was obtained by non-disclosure of a material fact or by presentation of a fact which was false in some material

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particular, therefore, any evidence adduced by the insurance company beyond pleadings cannot be taken into consideration. This apart, as the insurance company did not raise any such defence before the Tribunal, there was no opportunity with the insured to explain his position as to the circumstances under which he obtained the policy. Examined from another angle, the non-registration of vehicle has not, in any manner, attributed to the occurrence resulting in injuries sustained by the victim. In this view of the matter, contention raised by counsel for the appellant is devoid of merit and liable to be rejected.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

16.8.2018
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No