In the High Court of Punjab and Haryana at Chandigarh

FAO-3939 of 2018(O&M)
Date of Decision: 6.12.2018

United India Insurance Company Limited

---Appellant

versus

Smt. Usmani and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Rajneesh Malhotra, Advocate
for the appellant

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Rekha Mittal, J.

The present appeal directs challenge against order dated 8.12.2017 passed by the Commissioner under the Employee's Compensation Act, 1923 (in short "the Act") whereby compensation has been awarded in regard to death of Azrudin @ Azru in an occurrence that took place on 10.6.2015.

Apart from the fact that there is unexplained inordinate delay of 113 days in filing the appeal, the appeal is devoid of merit and deserves to be dismissed.

Counsel for the appellant would urge that the Commissioner has relied upon judgment of Hon'ble the Supreme Court **Firdaus vs. Oriental Insurance Company limited and others 2017(8) Scale 301** to uphold plea of the claimants and respondent No. 8, transferee of the vehicle with regard to liability of the insurance company to pay compensation. It is argued with vehemence that in **Firdaus's case (supra),** reliance has been placed upon judgment of Hon'ble the Apex Court **G.Govindan vs. New India Assurance Company Limited 1999(2) RCR(Cvil) 489** and in **G.Govindan's case (supra),** reliance has been placed upon earlier judgment of Hon'ble the Apex Court **M/s Complete Insulations Private Limited vs. New India Insurance Company Limited, 1996(1) SCC 221.** It is further argued that in **M/s Complete Insulations Private Limited 's case (supra)**, Hon'ble the Supreme court, on detailed consideration of Sections 147 and 157 of the Motor Vehicles Act, 1988 has held in para 10 that "since there was no such agreement and since the insurer had not transferred the policy of insurance in relation thereto to the transferee, the insurer was not liable to make good the damage to the vehicle. The view taken by the National Commission is therefore correct". It is further argued that in view of ratio laid down in **M/s Complete Insulations Private Limited's case (supra),** since the policy of insurance has never been transferred in the name of alleged transferee of the vehicle in question, the insurance company has wrongly been fastened with liability to pay compensation.

I have heard counsel for the appellant, perused the paper book particularly the order impugned and judgments cited at bar.

Counsel has not disputed that in **Firdaus's case (supra)** pertaining to compensation under the Act, the insurance company has been fastened with liability to pay compensation despite the insurance policy having not been transferred in the name of transferee of the vehicle in question. In view of judgment in **Firdaus's case (supra),** contention raised by counsel that the insurance company cannot be fastened with liability in view of judgment in **M/s Complete Insulations Private Limited's case (supra)** is not tenable and accordingly rejected.

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

(Rekha Mittal)
Judge

6.12.2018
PARAMJIT

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes/No