

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision : 13.08.2018

FAO No.4870 of 2018 (O&M)

ORIENTAL INSURANCE COMPANY LIMITED ... Appellants

Versus

DARSHAN KAUR AND OTHERS ... Respondents

FAO No.4887 of 2018 (O&M)

ORIENTAL INSURANCE COMPANY LIMITED ... Appellants

Versus

NIDERJEET KAUR AND OTHERS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashwani Talwar, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.4870 and 4887 of 2018 as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from FAO No.4870 of 2018.

Darshan Kaur and others filed an application under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act') for grant of compensation on account of death of Binder Singh son of Nek Singh, out of use of harvester combine bearing No.PB-13AF-6285.

Counsel for the appellant has challenged the award primarily

on three counts. The first submission made by counsel is that sitting capacity of harvester combine is only 1+1 but as four persons were sitting there including the driver, insured is guilty of violating the terms and conditions of the policy. The second submission is that the harvester combine was insured as private vehicle but the same was being used for hire or reward, in violation of the policy conditions, therefore, the insurance company is entitled to be exempted from liability to pay compensation or in the alternative given right of recovery against the insured. In addition, it is argued that since the harvester combine was being used in a field, the same cannot be said to be a public place to attract the provisions of the Act.

I have heard counsel for the appellant, perused the paper book, particularly the award dated 02.04.2018 passed by the Motor Accidents Claims Tribunal, Sangrur.

The plea of the claimants is that on 23.10.2016, Binder Singh, Gurjant Singh, Buta Singh and Gurpayar Singh were harvesting paddy crop in the fields at Village Satoj. In the meantime, umbrella of harvester combine touched live electric wire in the fields and Binder Singh died due to passing of electric current in the combine. There is nothing on record suggestive of the fact that Binder Singh was sitting on the harvester combine at the time of occurrence, therefore, the appellant cannot derive any advantage from its contention that four persons were sitting on the harvester combine. The second plea raised by the insurance company that

harvester combine was being used for hire or reward also sans merit as there is no material produced on record that the vehicle was used for hire or reward, in violation of the policy conditions. The plea with regard to field being not a public place, is liable to be rejected. In this context, reference can be made to judgments of this Court **The New India Assurance Co. Ltd. Vs. Madhu Bala and others, FAO No.5878 of 2015, decided on 08.12.2015** and **The New India Assurance Co. Ltd. Vs. Rukmani and others, FAO No.4487 of 2014, decided on 10.11.2016**. That being so, contentions raised by the insurance company are not meritorious and liable to be rejected.

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly dismissed in limine. As the appeals have been decided on merits, application(s) for condonation of delay is of academic relevance only.

(REKHA MITTAL)
JUDGE

13.08.2018

ashok

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No