

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 5651 of 2018(O&M)

Date of Decision: 3.10.2018

The Oriental Insurance Company Limited

---Appellant

versus

Daya Nand and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Vinod Chaudhri, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against award dated 1.5.2018 passed by the Motor Accidents Claims Tribunal, Jhajjar (in short “the Tribunal”) on account of death of Vikas in a motor vehicular accident that took place on 16.7.2016.

Counsel for the insurance company would inform that appeal has been preferred to challenge findings of the Tribunal on issue Nos. 4 and 5 that relate to driving licence and violation of terms and conditions of policy.

With regard to driving licence possessed by Satbir, driver of the vehicle who also died in the same accident, the insurance company did not examine a witness of the concerned licensing authority to prove that licence in question was not issued in the name of Satbir, as such no error much less illegality can be noticed in findings of the Tribunal on issue No. 4.

The insurance company raised a plea that the insured is guilty of violating terms and conditions of the policy. However, no specific plea was raised that the vehicle was plied without a permit. Counsel for the appellant has failed to point out any materials on record suggestive of the fact that the insured was called upon to produce permit. Perusal of the award would reveal that no such issue of the vehicle being plied without a permit was raised even at the time of hearing of arguments. In the circumstances, as the insurance company did not raise a specific issue qua the vehicle being plied without a permit at any stage of the proceedings before the Tribunal, appellant cannot be allowed to raise such a factual plea for the first time in appeal.

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

(Rekha Mittal)
Judge

3.10.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No