

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

FAO No. 6565 of 2018(O&M)

Date of decision: 22.10.2018

Tata AIG Insurance Co. Ltd.Appellant

VERSUS

Smt. Mumtaj and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sachin Ohri, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against order dated 25.05.2018 passed by the Commissioner, under the Employee's Compensation Act, 1923 (in short 'the Act), Nuh whereby compensation has been assessed on account of death of Farukh in an accident on 15.05.2015 when he was on duty on vehicle No.HR55-L-1071 owned by Fakru – respondent No.1 therein.

The sole submission made by counsel for the appellant is that as insurance policy was obtained by respondent No.1 therein by showing fake cover note of previous insurance, liability to pay compensation has wrongly been fastened against the appellant-insurance company.

Apart from the fact that the appeal has been filed after delay of 57 days, the same is not meritorious and liable to be dismissed.

The Authority under the Act, on internal page 4 of the impugned order, has noticed that perusal of the case file shows that respondent No.2 (insurance company) relied upon report Ex.R-3 prepared by Sh. Rakesh Parikh but he was not examined to prove the report and give

an opportunity to the other party for cross examination. The period of insurance is 14.05.2015 to 13.05.2016 but the report was prepared in March 2017. Premium of Rs.32,838/- was obtained by the insurance company from Fakru and the same was used by the insurance company. No case was filed by the insurance company with regard to any such fraud played by Fakru with the insurance company.

Counsel for the appellant has not disputed factual findings recorded by the Authority. As the appellant- insurance company has failed to substantiate its plea that policy in question was obtained by playing fraud upon the insurance company, contention raised by counsel for the appellant that insurance company is not liable to pay compensation is not meritorious and has rightly been rejected.

No other point has been raised.

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

OCTOBER 22, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no