In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 17.7.2019

FAO No. 4285 of 2019 (O&M)

National Insurance Company Limited

---Appellant

versus

Rajbir alias Rajvir and others

---Respondents

FAO No. 4291 of 2019 (O&M)

National Insurance Company Limited

---Appellant

versus

Sukhvinder and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sandeep Suri, Advocate
for the appellant

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Rekha Mittal, J.

This order will dispose of FAO Nos. 4285 and 4291 of 2019 as these have emerged out of award dated 1.2.2019 passed by the Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri (in short 'the Tribunal") whereby compensation has been assessed in regard to injuries sustained by Rajbir @ Rajvir and Sukhvinder, in a motor vehicular accident that took place on 9.4.2017.

The sole submission made by counsel for the insurance company is that since tractor was attached with trolley and trolley was loaded with wooden logs, licence possessed by Najim, driver of offending vehicle would not be effective for authorizing him to drive the vehicle in question, therefore, the insured is guilty of violating the terms and conditions of policy constituting a defence in favour of the insurer and on that basis, the insurance company is entitle to have right of recovery against the insured after payment of compensation to the injured-claimant(s).

Another submission made by counsel is that the Tribunal has awarded interest @ 9% per annum on compensation assessed.

The first plea raised by the insurance company is not meritorious, thus, untenable when examined in the light of judgments of Hon'ble the Supreme Court **Nagashetty vs. United India Insurance Company Limited, 2001(4) RCR (Civil) 597** and **Mukund Dewangan vs. Oriental Insurance Company Limited 2017 (7) Scale 731.** The gross vehicle weight of tractor is less than 7500 kgs, therefore, the same falls within the definition of 'Light Motor Vehicle' under Section 2(21) of the Motor Vehicles Act, 1988. Indisputably, the driver possessed licence to drive a light motor vehicle. In this view of the matter, I find it difficult to interfere in findings of the Tribunal on the question of driving licence.

The Tribunal has awarded interest @ 9% per annum. There is no evidence on record as to what was the bank rate of interest at the time of filing of claim application or passing of award by the Tribunal. Hon'ble the Supreme Court affirmed grant of interest @ 9% per annum in **Sandhya Rani Debbarma and others vs. National Insurance Co. Ltd. and another, 2016 (4) RCR (Civil) 465.** Hence, contention of the insurer to challenge rate of interest is rejected.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeals fail and are accordingly dismissed in limine.

(Rekha Mittal)
Judge

17.7.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No