208 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
(2 cases) **AT CHANDIGARH**

(1) FAO No.2069 of 2011 (O&M)
Date of Decision: 18.09.2019

United India Insurance Co. Ltd. .....Appellant

Versus

Promila and others ....Respondents

(2) FAO No.2070 of 2011 (O&M)

United India Insurance Co. Ltd. .....Appellant

Versus

Balwant Singh and others ....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Rajesh Kumar Sharma, Advocate
for the appellant(s).

Mr. Ajay Aggarwal, Advocate for
Mr. Sandeep Goyat, Advocate
for respondent Nos.1 to 3.

None for respondent No.4.

NIRMALJIT KAUR, J. (ORAL)

Both the aforementioned appeal shall stand decided by this common order.

The appeal bearing FAO-2069-2011 has been filed by the insurance company against the award dated 13.12.2010 passed by the Motor Accident Claims Tribunal, Hisar (for short, the Tribunal), vide which, the compensation of ₹4,41,500/- has been awarded to respondent Nos.1 to 3 alongwith interest on account of death of Naresh Kumar, who was the driver of the Mohindra Jeep bearing registration No.HR-31-7805 involved in the accident.

While praying for setting aside the said award, learned counsel for the appellant submitted that the driver of the jeep was not having a driving licence to drive the commercial vehicle at the time of accident. Secondly, he was carrying passengers, which is gross violation of the terms and conditions of the insurance policy. As such, the insurance company was not liable to pay any amount of compensation to the claimants. It is further stated that the deceased himself was a tort-feasor and therefore, his legal heirs are not entitled.

It is not disputed that no compensation was claimed by the legal heirs of the passengers. In the present case, the claimants are the legal heirs of the driver in question. The insurance company, therefore, cannot avoid its liability towards the driver and towards third party simply on the ground that the driver did not have a licence to drive the commercial vehicle. Even otherwise, as per the judgment rendered in the case of *Mukand Dewangan Vs. Oriental Insurance Company Ltd., reported in 2017 (14) SCC 663*, there was no requirement to obtain any separate endorsement to drive a transport vehicle. No doubt the matter may have been referred to a Larger Bench but as on date the said judgment is still applicable.

Dismissed accordingly.

Appeal bearing FAO No.2070 of 2011.

Learned counsel for the appellant while arguing on the question of quantum in appeal bearing FAO-2070-2011 submitted that the income of the deceased being 5 years old could not have assessed as ₹15,000/- per annum but after arguing for some time did not want to press the appeal.

In view of the same, no interference is called for in the award passed by the Tribunal.

Dismissed accordingly.

(NIRMALJIT KAUR)
JUDGE

18.09.2019
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No