In the High Court of Punjab and Haryana at Chandigarh

FAO-300 of 2013(O&M)
Date of Decision: 14.5.2019

Jasram and another

---Appellants

versus

Braham Parkash @ Pappu and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Y.D.Kaushik, Advocate
for the appellants

Mr. Manmohan, Advocate,
for the insurance company

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Rekha Mittal, J.

The driver and owner of the offending tractor bearing No. HR-51-AH-0155 are in appeal against award dated 12.10.2012 on a limited issue that the insurance company has wrongly been exonerated of liability to pay compensation.

Counsel for the appellants would apprise the court that in a case arising out of same accident, in an appeal filed before the Delhi High Court titled 'Sunder @ Sunderi Devi and others vs. Reliance General Insurance Company Limited and others" decided on 20.2.2014, the insurance company has been fastened with liability to pay compensation. It is further argued that controversy raised in the present appeal is squarely covered in favour of the appellants, in view of the aforesaid judgment passed by the Delhi High Court.

Counsel representing the insurance company has not disputed the aforesaid contention but he would submit that the Delhi High Court has given right of recovery to the insurance company against the insured/owner of the offending vehicle, subject to certain contingencies.

Counsel for the appellants concedes to this position.

I have heard counsel for the parties, perused the paper book particularly the judgment in Sunder @ Sunderi Devi and others' case (supra).

A relevant extract from para 10-11 of the judgment of Delhi High Court, reads thus:-

> "10. For the loss of cover note in question FIR was lodged. Both the parties are not aware about the outcome of the FIR. If, after investigation, the police has filed charge-sheet against the owner of the offending vehicle, then the insurance company is entitled to recover the amount from him, otherwise not.
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> 11. In view of the above discussion, I am of the considered opinion that the learned Tribunal has erred in not fastening the liability upon the Insurance Company. Accordingly, the respondent No. 1/insurance company is held responsible to deposit the compensation amount in the first insurance and thereafter recover the same from respondent No. 3, owner of the offending vehicle in view of para 10 above."

In view of the above, the appeal stands disposed of. The insurance company shall be liable to pay compensation to the respondents-claimants but shall be entitle to recover the same from owner of the offending vehicle subject to observations made by the Delhi High Court.

(Rekha Mittal)
Judge

14.5.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No