

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

**CM No.6317-CII of 2019 in
FAO-490-2013
Date of decision: 02.11.2019**

United India Insurance Company LimitedAppellant

Versus

Paramjit Kaur and others**Respondents**

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. D.R. Bansal, Advocate
for the appellant.

Mr. Sukhjit Singh, Advocate
for respondents No.1 to 3.

Mr. D.S. Malwai, Advocate for
Mr. K.B. Raheja, Advocate
for respondent No.4.

REKHA MITTAL, J.(ORAL)

CM-6317-CII-2019

Heard.

Allowed as prayed for.

FAO No.490 of 2013 is taken on board today itself.

Disposed of accordingly.

FAO-490-2013

Challenge in the present appeal has been directed against award dated 09.10.2012 passed by the Motor Accidents Claims Tribunal, Sangrur (in short 'the Tribunal') whereby compensation has been assessed on account of death of Kuldeep Singh @ Babbu in a motor vehicle accident that took place on 09.10.2009.

Counsel for the insurance company would inform that appeal has been filed to assail quantum of compensation and entitlement

of the insurance company to have right of recovery against Aditya Army Public School, Ujina, registered owner/insured of offending vehicle i.e. Tata Mini bus bearing No.HR-55-A-6792. Counsel would further inform that challenge qua quantum of compensation no longer subsists as appeal filed by claimants seeking enhancement of compensation has been allowed by this court vide judgment dated 08.12.2017 passed in FAO No.90 of 2013.

The sole submission made by counsel for the appellant is that since the registered owner/insured transferred the vehicle in favour of Mohinder Singh - respondent No.4 without intimation to the insurance company, the insurance company is entitle to have right of recovery against the registered owner after discharging liability towards the claimants. For this purpose, reliance has been placed upon judgment of Hon'ble the Supreme Court **Rikhi Ram and another Vs. Smt. Sukhrania and others, 2003(1) RCR(Civil) 756.**

Counsel representing the respondents on the contrary, would argue that the judgment relied upon by counsel for the insurance company pertains to Section 103-A of the Motor Vehicle Act, 1939 and in absence of any such provision in the Motor Vehicles Act, 1988 (in short 'the Act') applicable in the circumstances of the case, the appellant cannot derive any advantage to its contention from the referred authority. It is further argued that in view of the provisions of Section 157 of the Act, the insurance company can neither escape its liability to pay compensation to the claimants nor can assert any right of recovery against the insured merely because the vehicle had been transferred without intimation to the insurance company. In support of his contention, he has relied upon judgments of Hon'ble the Supreme Court

G. Govindan Vs. New India Assurance Company Limited, 1999(2) RCR (Civil) 489 and Mallamma (Dead) by LRs Vs. National Insurance Company Ltd. and others, 2015(1) SCC (Civil) 246.

Further reference has been made to Division Bench judgment of this court **M/s United India Insurance Company Limited Vs. Manjit Kaur and others, 2000(3) RCR (Civil) 441.**

I have heard counsel for the parties, perused the paperbook and records.

Counsel for the appellant without examining the provisions of the Act, relevant in the present context, sought to rely upon the judgment in **Rikhi Ram and others’ case** (supra) that dealt with Section 103-A of the Motor Vehicles Act, 1939. Taking into consideration the judgments relied upon by counsel for the respondents, contention raised by counsel for the insurance company with regard to its entitlement to have right to recovery against the insured, in the given circumstances, is patently misconceived and accordingly rejected.

Counsel for the appellant made a vain attempt to argue that the insurance company is entitle to have right of recovery for want of permit of the offending vehicle. However, he has fairly conceded that the said issue was not pressed before the Tribunal. That being so, the appellant is not entitle to raise the question of permit, a factual controversy for the first time in appeal.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed. Miscellaneous applications, if any, shall be deemed to be dismissed.

NOVEMBER 2, 2019	(REKHA MITTAL)
‘D. Gulati’	JUDGE
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No