IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2303 of 2016 (O&M)
Date of decision: 05.04.2019

United India Insurance Co. Ltd. ... Appellant

Versus

Palwinder and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Harsh Aggarwal, Advocate for the appellant.
Mr. HPS Ghuman, Advocate for respondents No.2 and 3.

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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 11.12.2015 passed by the Motor Accidents Claims Tribunal, Patiala whereby compensation has been assessed on account of death of Aeshvir Singh in a motor vehicular accident that took place on 16.04.2013.

Counsel for the insurance company would fairly inform that the appeal has been preferred by the insurer on the question only of route permit as bus No.PB-13-AF-0784 (offending vehicle) did not have a route permit to ply in the area where the occurrence in question took place. It is further argued that respondent No.3 produced a copy of permit but the same was not valid on the day of occurrence.

Counsel representing the contesting respondents (respondents No.2 and 3) would argue that non-possessing of a route permit or deviation from authorized route is not a defence available to the insurance company under Section 149(2) of the Motor Vehicles Act, 1988 (in short 'the Act'), therefore, the insurance company cannot escape liability to pay compensation or press for right of recovery against the insured after satisfying the award towards claimant.

Counsel for the appellant-insurance company, after going through contents of the written statement/reply, would fairly inform that the insurance company had raised an issue with regard to driving licence, fitness certificate and route permit and not qua permit in terms of Section 66 of the Act. Indisputably, the bus in question is registered in the State of Punjab and the occurrence in question also took place in the said State. Since the insurance company never raised an issue that the vehicle was plied without a permit required under Section 66 of the Act and non-possessing of route permit is not a defence available to the insurer under Section 149(2) of the Act, contention raised by the insurance company to press for right of recovery against the insured is not meritorious and accordingly rejected.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed.

05.04.2019 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No