In the High Court of Punjab and Haryana at Chandigarh

FAO No. 2653 of 2016(O&M)
Date of Decision:7.3.2019

United India Insurance Company Limited

---Appellant

versus

Nihal Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Suman Jain, Advocate
for the appellant

Ms. Rajni Maurya, Advocate,
for Mr. Naveen Batra, Advocate
for Respondent No. 1

None for respondent no. 2

***

Rekha Mittal, J.

Mr. M.S.Atwal, Advocate, has caused appearance on behalf of respondent No. 3.

The present appeal directs challenge against award dated 18.1.2016 passed by the Motor Accidents Claims Tribunal, Hoshiarpur (in short “the Tribunal”) whereby compensation has been assessed on account of injuries sustained by Nihal Singh in a motor vehicular accident that took place on 17.8.2014.

Counsel for the appellant insurance company would inform that the appeal has been preferred only on the question of vehicle being plied without a route permit. It is argued that copy of the permit Ex. R-2 available on record would reveal that the same was not in force at the time of accident i.e. 17.8.2014, therefore, the insured is guilty of violating the terms and conditions of policy entitling the insurance company to press for right of recovery against the insured after payment of compensation to the claimant.

Counsel representing respondent No. 3, on the contrary, would urge that the insurance company raised an issue with regard to route permit and issue No. 4 framed by the Tribunal also pertains to route permit besides driving licence and fitness certificate. It is further contended that non-possessing of 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 its liability to pay compensation to the claimant by way of indemnification of the insured in discharge of its obligation under the contract of insurance.

Counsel for the appellant, in response to a pointed query, would fairly inform after going through the contents of the written statement that the insurance company raised an issue with regard to route permit and not a permit. The vehicle in question is registered in the State of Punjab and the occurrence took place within the local limits of State of Punjab. Non-possessing of route permit is not a defence available to the insurance company under Section 149(2) of the Act. Since the insurance company did not raise a plea that the vehicle was being plied without a permit in compliance with the provisions of Section 66 of the Act that constitutes a defence in favour of the insurer under Section 149(2), as has rightly been argued by counsel for respondent No. 3, insurance company can neither escape its liability to pay compensation to the claimant nor can press right of recovery against the insured.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

7.3.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No