In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 28.2.2019

FAO No. 4012 of 2015(O&M)

Shri Ram General Insurance Company Limited

---Appellant

versus

Jagata Ram and others

---Respondents

FAO No. 4624 of 2015(O&M)

Amarjeet and another

---Appellants

versus

Jagata Ram and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Sheenu Sura Advocate
for the appellant in FAO-4012 of 2015
for respondent No. 2 in FAO No. 4624 of 2015

Mr. Sunny Dhull, Advocate,
for Mr. Namit Khurana, Advocate
for the appellants in FAO- 4624 of 2015

None for respondent No. 1

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Rekha Mittal, J.

This order will dispose of FAO Nos. 4012 and 4624 of 2015 as these have emerged out of the same award dated 17.3.2015 passed by the Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri (in short "the Tribunal") whereby compensation has been assessed on account of death of Vinay Kumar in a motor vehicular accident that took place on 18.12.2011.

FAO No. 4012 of 2015 has been filed by Shri Ram General Insurance Company Limited (hereinafter referred to as “the insurance company”) whereas the other appeal has been preferred by the claimants seeking enhancement of compensation.

FAO No. 4012 of 2015

The sole submission made by counsel for the appellant is that as driver of the vehicle i.e. auto bearing No. HR-99KL (Temp)-6472 did not possess driving licence containing endorsement of transport, he did not possess an effective driving licence to drive the vehicle in question that amounts to violation of terms and conditions of the policy constituting defence in favour of the insurance company, therefore, the insurance company is entitle to have recovery right against the insured after payment of compensation to the claimants.

Counsel representing the insurance company, in response to a query, would inform that gross vehicle weight of Auto in question is less than 7500 kg, as such, the vehicle falls within the definition of 'Light Motor Vehicle' under Section 2(21) of the Motor Vehicles Act, 1988. The driver had a licence to drive a Light Motor Vehicle, therefore, he was authorized to drive the vehicle in question. In this context, reference can be made to judgment of Hon'ble the Supreme Court **Mukund Dewangan vs. Oriental Insurance Company Limited 2017 (7) Scale 731**. That being so, there is no merit in contention of the insurance company that either the driver was not possessing a valid licence or the insured is guilty of violating the terms and conditions of the insurance policy.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs.

FAO No. 4624 of 2015

The present is a case of death of a child aged about 10 years. The application has been filed under Section 163-A of the Motor Vehicles Act, 1988 (in short “the Act'). Compensation is to be assessed on the basis of structured formula laid down in the 2nd Schedule appended to Section 163-A of the Act. Income of the deceased is liable to be assessed at Rs. 15000/- per annum. By applying multiplier of 15, loss of dependency comes to Rs. 2,25,000/-. The Tribunal has awarded a sum of Rs. 39,835/- towards medical expenses. Addition of medical expenses and sum of Rs. 2000/- for expenses on funeral would make the amount less than Rs. 2,89,835/- allowed by the Tribunal. In the given circumstances, there is no scope for allowing compensation more than what has been assessed by the Tribunal. Accordingly, assessment made by the Tribunal is affirmed.

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

(Rekha Mittal)
Judge

28.2.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No