IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 3359 of 2016 (O&M)
Date of decision: 14.03.2019

Reliance General Insurance Co Limited ....*Appellant*

Versus

Nirmal Gogna and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Sandeep Kodan, Advocate
for the appellant

Mr. Sagar Aggarwal,Advocate
for respondents 1 to 3

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 19.04.2016 passed by the Motor Accidents Claims Tribunal, Kurukshetra (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Kajal in a motor vehicular accident that took place on 14.10.2014.

The insurance company (appellant herein) has raised a serious issue that Policy No. 202387243104559001 in the name of Jaspal Singh son of Rattan Singh qua vehicle No. PB-02 BV 7265 was not issued by the appellant, therefore, the insurance company cannot be fastened with liability to pay compensation.

The Tribunal has decided this question primarily on the ground that this plea is beyond pleadings and mere adducing evidence beyond pleadings is not sufficient. Perusal of the records would reveal that the insurance company filed an application dated 31.03.2015 for deletion of its name from array of respondents on the premise that the offending vehicle was not insured with the company on 10.08.2011 and letter of the Company dated 28.03.2015 was appended thereto that records that as per information available and records, the said policy was not issued by Reliance General Insurance Company. In the written statement, in para 17, a specific plea was raised that the insurance of the vehicle in question is denied till its confirmation from issuing office. The insurance company examined a witness namely Dushyant Singh, Legal Claim Manager (RW1) in support of its contention that policy in question was not issued by the appellant insurance company. The Tribunal has not adverted to statement of Dushyant Singh and has decided the issue by saying that the aforesaid plea is beyond pleadings. No doubt, the insurance company did not press application dated 31.03.2015 but it remains a fact that the insurance company never admitted that policy was issued by the Company. In the given circumstances, interest of justice commands that the matter with regard to validity of the policy in question is remitted to the Tribunal for decision afresh after issuance of notice to the insured/owner of the vehicle. Accordingly, the appeal stands disposed of and the Tribunal is directed to frame a specific issue in this regard and thereafter allow parties namely insurer and insured to adduce evidence, in accordance with law. The claimants may join the proceedings for adjudication of the aforesaid issue and lead evidence, if they so desire, but they would not be served any notice by the Tribunal. In the meantime, the insurance company shall deposit compensation assessed by the Tribunal within four weeks and the same shall be converted into fixed deposit, subject to outcome of the issue qua the policy in question.

Parties through their counsel are directed to appear before the Tribunal on 12.04.2019.

(Rekha Mittal)
Judge

14.03.2019
Mohan Bimbra

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