IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 06.11.2019

FAO 4211 of 2016 (O&M)

Oriental Insurance Company Limited .....*Appellant*

Versus

Kirandeep Kaur and others .....*Respondents*

FAO 994 of 2017 (O&M)

Oriental Insurance Company Limited .....*Appellant*

Versus

Bhola Singh and others .....*Respondents*

FAO 1886 of 2018 (O&M)

Oriental Insurance Company Limited .....*Appellant*

Versus

Paramjeet Kaur and others .....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Vinod Chaudhari, Advocate
for the appellant – insurance company

Mr. Rajender Kumar, Advocate
for respondents No. 3 and 4

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Rekha Mittal, J. (Oral)

This order will dispose of aforesaid appeals as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from FAO No. 4211 of 2016.

Counsel for the appellant - insurance company would argue that

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in the verification report Ex. R7 issued by the office of District Transport Officer, Tuensang, Nagaland, licence possessed by Balkar Singh, driver of offending vehicle would be treated as cancelled being not in Smart Card Format, therefore, Balkar Singh was not duly licensed to drive the vehicle and as such, the insured is guilty of violating terms and conditions of insurance policy, on the basis whereof, the appellant is entitle to have right of recovery against the insured after payment of compensation to the claimants. Another submission made by counsel is that compensation allowed under conventional heads in all the cases is more than what can be allowed in the light of judgments of Hon'ble the Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270*** and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034.***

The Tribunal, in para 15 of the award has noticed contents of the verification report Ex.R7 to reject plea of the insurance company that Balkar Singh was not holding a legal and valid driving licence at the time of accident. Perusal of report dated 11.12.2015 marked as Ex. R7 makes it evident that licence No. 51380/TV/T/2013 was issued on 17.10.2013 and valid up to 16.11.2017, authorizing Balkar Singh to drive MC/LMV/HGV,HTV with endorsement of HGV/HTV on 17.11.2014. However, in the remarks column, it is mentioned that licence would be treated as cancelled other than the Smart Card format. The report Ex.R7 is more than sufficient to prove that Balkar Singh had a valid licence on 04.06.2015, the date of occurrence whereby he was authorized to drive the vehicle of aforesaid category including Canter TATA 909 bearing No. PB

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11-AR-9968. The mere fact that Government of Nagaland had taken a decision that they would not recognize driving licences other than in Smart Card format would not entitle the insurance company to raise a plea that Balkar Singh was not duly licensed to drive the offending vehicle on the day of accident. In this view of the matter, I do not find any reason to differ with findings of the Tribunal negating plea of the insurance company in respect of driving licence.

As no notice has been issued to the claimants with regard to quantum of compensation, insurance company is not entitle to raise a question in respect thereto.

In view of what has been discussed hereinbefore, finding no merit, the appeals fail and are accordingly dismissed, leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

06.11.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No

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