In the High Court of Punjab and Haryana at Chandigarh

FAO- 4268 of 2016(O&M)
Date of Decision: 8.7.2019

United India Insurance Company Limited

---Appellant

versus

Jaiveer alias Jaibir (now deceased) and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sanjiv Pabbi, Advocate
for the appellant

Mr. Sunil Saharan, Advocate
for respondent No. 3

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<u>Rekha Mittal, J.</u>

Challenge in the present appeal has been directed against award dated 29.2.2016 passed by the Motor Accidents Claims Tribunal, Hisar (in short "the Tribunal") whereby compensation has been assessed on account of injuries sustained by Jaiveer @ Jaibir in a motor vehicular accident that took place on 22.9.2013.

Counsel for the insurance company has assailed the award primarily on two counts. The first submission made by counsel is that since trolley attached with tractor purportedly hit the injured who later died and trolley was not insured by its owner, the insurance company has wrongly been saddled with liability to pay compensation.

Another submission made by counsel is that as trolley was attached with the tractor, it becomes a transport vehicle and as such the driving licence possessed by the driver would not be valid for authorizing him to drive the vehicle in question, accordingly, the insurance company is entitle to have right of recovery against the insured after payment of compensation to the claimant(s).

The first submission made by counsel is misconceived and liable to be rejected when examined in the light of judgment of this Court **Oriental Insurance Company Limited vs. Sharbati Davi and others 2019(1) PLR 622** wherein in para 3 of the judgment it has been held, quoted thus:-

> "As the trolley was attached with the tractor and did not move independently except because of the tractor being brought in motion by driver of offending vehicle, it is difficult to accept contention of the insurance company that the insurer is not liable to pay compensation merely because the trolley attached with the tractor was not insured. The matter would have been different, had the trolley been not attached with the tractor and the occurrence had been caused because of trolley alone hitting the deceased."

The second submission made by counsel is untenable when viewed in the light of judgments of Hon'ble the Supreme Court **Nagashetty vs. United India Insurance Company Limited, 2001(4) RCR (Civil) 597** and **Mukund Dewangan vs. Oriental Insurance Company Limited 2017 (7) Scale 731.** Counsel for the insurance company has not disputed that gross vehicle weight of tractor is less than 7500 kgs and the same falls within the definition of 'Light Motor Vehicle' under Section 2(21) of the Motor Vehicles Act, 1988. This apart, there is nothing on record suggestive of the fact that even the gross vehicle weight of tractor and trolley was more than 7500 kgs. Analyzed from any angle, contention raised by the insurance company on the aspect of driving licence is not meritorious and accordingly rejected.

No other point has been raised.

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

(Rekha Mittal)
Judge

8.7.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No