

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1.

FAO No.6136 of 2016 (O&M)
- Reliance General Insurance Company Limited

... Appellant
- Vs.
- Salochana Devi and others

... Respondents
2.

FAO No.6137 of 2016 (O&M)
- Reliance General Insurance Company Limited

... Appellant
- Vs.
- Ram Raj and others

... Respondents
3.

FAO No.6138 of 2016 (O&M)
- Reliance General Insurance Company Limited

... Appellant
- Vs.
- Kalu Ram and others

... Respondents
4.

FAO No.6139 of 2016 (O&M)
- Reliance General Insurance Company Limited

... Appellant
- Vs.
- Raj Pal and others

... Respondents
5.

FAO No.6140 of 2016 (O&M)
- Reliance General Insurance Company Limited

... Appellant
- Vs.
- Kranti and others

... Respondents
6.

FAO No.6141 of 2016 (O&M)
- Reliance General Insurance Company Limited

... Appellant
- Vs.
- Anju Devi and others

... Respondents
7.

FAO No.6142 of 2016 (O&M)
- Reliance General Insurance Company Limited

... Appellant
- Vs.
- Pritam Singh and others

... Respondents
8.

FAO No.6143 of 2016 (O&M)
- Reliance General Insurance Company Limited

... Appellant
- Vs.
- Sharda and others

... Respondents
9.

CR No.8755 of 2016 (O&M)
- Reliance General Insurance Company Limited

... Appellant
- Vs.
- Ashu and others

... Respondents

Date of Decision:24.09.2019

CORAM : HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Sanjeev Kodan, Advocate
for the appellant (s).

Mr. Aman Dhir, Advocate.

Mr. J.S. Cooner, Advocate.

Mr. Inderjit Sharma, Advocate.

Dr. Naresh Kaushik, Advocate and
Mr. Darshan Gulati, Advocate
for respondent No.3.

NIRMALJIT KAUR, J. (Oral)

All the aforementioned appeals as well as the civil revision are being disposed of by this common order being identical and arising out of the same award.

The above mentioned appeals are filed by the appellant (s)-insurance company praying for setting aside the award vide which the compensation has been awarded either to the claimants or the legal heirs of the deceased as a result of the accident.

Learned counsel for the appellant (s)-insurance company raised the following arguments:

(a) The driver of the offending vehicle produced two driving licences Ex.RX and Ex.R-4. The driving licence Ex.RX was issued by the Licencing Authority, Nagaland. The same was verified and as per the report Ex.R-9, the said licence was not issued by the Government of Nagaland. Therefore, the driver was not having a valid or effective driving licence at the time of accident.

(b) The second driving licence which was taken on record by the

Motor Accident Claims Tribunal was issued by the Licencing Authority, Allahabad and since one person cannot have two driving licences, the driver of the offending vehicle committed an offence under the Motor Vehicular Act which simultaneously absolves the insurance company from the liability to pay compensation.

(c) The previous claim petitions No.912, 913 and 914 of 2013 were dismissed as withdrawn vide order dated 09.11.2015 passed by the Motor Accident Claims Tribunal, Panchkula, therefore, the subsequent claim petitions were not maintainable.

(d) The jeep was meant to carry only 6 passengers whereas 10 claim petitions have been filed by 10 persons along with deceased and injured persons involved in the said accident. The same is against the terms and conditions of the policy, therefore, the appellant (s)-insurance company was not liable.

(e) The offending vehicle was plying without the permit and the permit was not produced by the owner before the Motor Accident Claims Tribunal. Therefore, it can be safely presumed that offending vehicle was plying without the permit and it is settled proposition of law that if the vehicle was plying without the permit, the insurance company cannot be made liable.

Learned counsel for the parties were heard at length.

The first argument that there were two driving licences has been dealt with by the Tribunal. The driving licence Ex.RX is stated to be issued by the Licencing Authority and it was found to be fake as per report EX.R-9. However, as per the finding recorded by the Tribunal, the said licence Ex.RX was not produced either by the claimants or driver or

the owner. There is nothing on record to show the source of Ex.RX. Hence, the said driving licence cannot be taken into consideration. The Tribunal rightly ignored the said driving licence. On the other hand, admittedly, the second driving licence Ex.R-4 was issued by the Licencing Authority, Allahabad and it is specifically mentioned in the grounds of appeal itself that the said driving licence was verified through the Right to Information Act by the appellant (s)-insurance company and the same was found to be genuine and duly issued by the said Licencing Authority, Allahabad. Therefore, there is no doubt that the driver of the offending vehicle had a valid driving licence Ex.R-4 which was valid on the date of the accident. It was found to be valid on 10.02.1990 to 24.2.2020, whereas the accident took place in the year 2013.

The next argument that the previous claim petitions No.912, 913 and 914 of 2013 were dismissed as withdrawn and therefore, subsequent petitions had no merit are not maintainable too deserves to be rejected inasmuch as no such objection was raised by the appellant (s)-insurance company before the Tribunal. Neither there was any objection nor any such issue was framed.

The third argument that the offending vehicle did not have the valid permit too has not merit. Not a single word has been mentioned as to what kind of permit was required by the offending vehicle. In any case, there is only a vague reference in the written statement that the offending vehicle did not have a valid permit. Accordingly, no specific issue was framed. The only issue was of violating the terms and conditions of the insurance policy. There is no clarity as to which particular violation of the terms and conditions was pleaded. In any case, the said issue, if at all, was

framed on the asking of the appellant (s)-insurance company. Therefore, it was incumbent upon the appellant (s)-insurance company to prove the same. No evidence was led by the appellant (s)-Insurance company, so much so, that neither the driver nor the owner of the offending vehicle was examined by the insurance company qua the permit. Hence, there is nothing on record to show that the offending vehicle did not have the valid permit, in case it was required at all.

The argument with respect to number of passengers too has no merit. Admittedly, the appellant (s)-Insurance company is the insurer of the offending vehicle i.e. the truck. The passengers were in the jeep. Moreover, as per the investigation of the criminal case, the driver of the ill fated jeep has not been found at fault. Thus, it was the insurer of the offending vehicle on the date of the accident who is liable to indemnify the owner of the offending vehicle. The appellant (s)-insurance company, therefore, cannot raise the said objection qua the passengers in the jeep.

The last argument qua quantum raised by the learned counsel for the appellant (s) was given up after arguing for some time. No other argument was raised.

In view of the above discussion, the appeals are dismissed being devoid of merit.

(NIRMALJIT KAUR)
JUDGE

24.09.2019
rajeev

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