

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

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FAO-209-2018 (O&M)

Date of decision: 07.03.2019

M/S SANJAY SOLVEX PVT LTD

... Appellant

Versus

AMANDEEP SINGH AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sham Lal Bhalla, Advocate for the appellant.
Ms. Madhu Sharma, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The registered owner/insured of offending truck bearing No.PB-10-R-9859 has filed the appeal to the limited extent that insurance company has not been held liable to pay compensation to the claimant though the driver and owner of the offending vehicle have been held entitle to recover the amount of compensation from insurance company respondent No.3.

Counsel for the appellant would argue that Amandeep Singh preferred claim for grant of compensation on account of injuries sustained in a motor vehicular accident that took place on 08.08.2016 and the Tribunal awarded Rs.14,13,671/- payable with interest @ 7.5% per annum. It is argued that as the vehicle was duly insured with Oriental Insurance Co. Ltd. and there is no such plea raised by the insurance company or finding of the Tribunal that the insured is guilty of committing any violation of the terms and conditions of policy, the appellant is entitle to be indemnified by the insurance company by payment of compensation to the claimant. It is further argued that the Tribunal in place of fastening primary responsibility upon the insurance company to pay compensation, has held the driver and owner to be jointly and severally liable to pay compensation with a right of recovery against the insurance company.

Counsel representing the insurance company is not in a position to support the observations of the Tribunal recorded in concluding para 29 of the award.

Indisputably, the offending vehicle was insured with Oriental Insurance Co. Ltd. impleaded on the array of respondents in the claim application. As the insurance company has an obligation in law to indemnify the insured and it is legal obligation of owner to obtain third party insurance, insurance company shall be jointly and severally liable to pay compensation to the claimant. Accordingly, findings of the Tribunal recorded in para 29 are modified to the effect that all the respondents before the Tribunal shall be jointly and severally liable to pay compensation to the claimant.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

07.03.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No