IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

264 FAO No.297 of 2018 (O&M)

Date of decision: 14.02.2019

UNITED INDIA INSURANCE CO. LTD. ... Appellant

Versus

OM PARKASH AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Vandana Malhotra, Advocate for the appellant.
Mr. MS Sidhu, Advocate for respondent No.3.
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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 23.08.2017 passed by the Motor Accidents Claims Tribunal, Gurugram whereby compensation has been awarded on account of injuries sustained by Om Parkash respondent No.1.

Notice of motion was issued only to respondent No.3 i.e. Anoop Oil Corporation, registered owner of offending truck bearing No.HR-14-E-0320.

Counsel for the insurance company would inform that appeal qua violations committed by respondent No.3 has been filed primarily on two grounds namely licence possessed by driver of offending vehicle did not contain endorsement authorising him to drive a vehicle carrying inflammable/hazardous goods and respondent No.3 having failed to produce the permit before the Tribunal for necessary verification.

Counsel for respondent No.3 would state that he is in possession of copy of the permit and may be permitted to file an application to place the same on record and thereafter the insurance company may seek necessary verification.

So far as plea of the insurance company that the insured is guilty of violating the terms and conditions of insurance policy for want of necessary endorsement on licence possessed by the driver, the same is not meritorious and liable to be rejected, when examined in the light of judgment of this Court **National Insurance Company Ltd. VS. Harbans**

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Kaur and others, FAO No.1210 of 2014 along with connected case, decided on 26.03.2018. Accordingly, the insurance company cannot press for right of recovery against the insured on this ground.

With regard to permit, counsel for the parties are ad idem that matter may be remitted to the Tribunal for deciding this question with liberty to respondent No.3 to produce permit before the Tribunal and thereafter evidence, if any, to be adduced by the insurance company in this regard.

In view of the above, the appeal stands disposed of. The matter with regard to the vehicle being plied without a permit or otherwise would be decided by the Tribunal by providing an opportunity to respondent No.3 herein for producing copy of permit and thereafter necessary verification by the insurance company and evidence, if any, to be adduced by the parties in this regard. The parties through their counsel are directed to appear before the Tribunal on 06.03.2019. The Tribunal shall decide the matter afresh to the aforesaid limited extent within a period of three months of the parties putting in appearance.

As the appeal has been disposed of in aforesaid terms, application for condonation of delay is of academic relevance only.

14.02.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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

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