In the High Court of Punjab and Haryana at Chandigarh

FAO- 7172 of 2017(O&M)
Date of Decision: 14.5.2019

Master Sahil and others

---Appellants

versus

Shahid Ali and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ashish Gupta, Advocate
for the appellants

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation with regard to death of Yashin @ Sonu son of late Suleman in a motor vehicular accident that took place on 6.8.2014.

The plea of claimants is that on the fateful day, Yashin @ Sonu was going from Karnal to Indri on motor cycle bearing No. HR-75A-0368, driven by him at a normal speed. When he reached near Ramba Chowk near Budha college on Karnal-Indri Road, a truck came from the side of Indri and hit against motor cycle driven by Yashin @ Sonu and as a result, the victim sustained multiple grievous injuries and died at the spot. FIR No. 571 of 2014 was registered at Police Station, Sadar Karnal.

The Tribunal has held that the deceased was a borrower of motor cycle owned by Shahid Ali-respondent No. 1, therefore, the deceased has stepped into the shoes of insured and the claimants were held entitle to a sum of Rs. 1 lakh payable with interest.

Counsel for the appellants would argue that policy issued by the insurance company is a comprehensive policy, therefore, the insurance company is liable to pay compensation, to be assessed in view of the structured formula laid down in the 2nd Schedule appended to Section 163-A of the Motor Vehicles Act, 1988. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court **National Insurance Company vs. Balakrishnan and another 2013 ACJ 199.** Further reference has been made to judgment of a Co-ordinate Bench **ICICI Lombard General Insurance Company Limited vs. Mehrana and others** FAO No. 792 of 2018 decided on 6.8.2018.

The judgment in **Balakrishnan and another's case (supra)** relates to liability of the insurance company in respect of death of Managing Director travelling in the car and not of a driver who is borrower of the car from the owner/insured. As such, the appellants cannot derive any advantage to their contention from the judgment in **Balakrishnan and another's case (supra).** For this reason, even the judgment in **Mehrana and others' case (supra)** has no bearing because the court has relied upon the judgment in **Balakrishnan and another's case (supra).** Conversely, the controversy raised in the present appeal is squarely covered against the appellant in view of judgment of this Court **Reliance General Insurance Company Ltd. vs. Jaswinder Pal Kaur and others** FAO-1840 of 2015 decided on 22.8.2017.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. However, nothing stated hereinbefore shall have bearing in the appeal, if any, filed by the insurance company.

(Rekha Mittal)
Judge

14.5.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No