IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.214 **FAO-2937-2012**
DECIDED ON: September 03, 2019

KAMLA DEVI AND OTHERS

...APPELLANTS

VERSUS

SHIV NARAIN AND OTHERS.

...RESPONDENTS

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kulvir Narwal, Advocate,
for the appellants.

None for respondents No.1 & 2.

Mr. Vikas Mohan Gupta, Advocate,
for respondent No.3.

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RITU BAHRI, J. (ORAL)

This is an appeal filed by the appellants for enhancement of compensation against the Award dated 15.11.2011 passed by the Motor Accident Claims Tribunal, Rohtak (for short 'the Tribunal').

Counsel for the appellants contends that as per the insurance policy, Rs.100/- had been paid as a premium by the owner-cum-driver and the husband of the deceased who had borrowed the vehicle would be covered in the insurance policy for claiming compensation in proceedings under Section 163-A of Motor Vehicles Act, 1988. He relies upon the judgment of Division Bench in case ***United India Insurance Company Ltd. vs. Kusum Sood and ors., 2008(1) R.C.R. (Civil) 751*** and contends that once the insurance policy covers the risk of the driver, a person who is driving the vehicle even if he is not the owner would be covered under the policy and the claim petition under Section 163-A of the Act could not be dismissed.

A perusal of this judgment shows that in paragraph 9 of the said judgment, it has been specifically observed that if an employee of the owner happens to be at the wheel of the vehicle at the time of accident, it would not be mean that he would be covered under the term as driver. In a case where a vehicle, which is owned and possession by the owner himself, it is but natural to expect that he would ordinarily be its driver. Hence, the petitioner cannot get benefit of the said judgment.

In the present case, the Tribunal has observed that the owner Bhim Singh-RW-2 and even Shiv Narain RW-3 had appeared before the Tribunal and stated that the vehicle belonged to Bhim Singh and Shiv Narain was accompanying the deceased Vinod Kumar and was not driving the vehicle and it has been admitted by PW-1 Smt. Kanta mother of the deceased that the deceased Vinod Kumar had gone to borrow this vehicle from owner-respondent No.2.

Keeping in view the above facts and the terms of the insurance policy, the deceased could not be covered under the term owner/driver and hence, the claim petition under Section 163-A of the Act is rightly being dismissed.

In view of above, no exception can be made out to allow this appeal. This appeal is accordingly dismissed.

September 03, 2019 **(RITU BAHRI)**
Ankur **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No