IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209 FAO-5543-2009 (O&M)

Date of decision: 06.03.2020

NATIONAL INSURANCE CO. LTD. ... Appellant

Versus

MANISHA AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ravinder Arora, Advocate and
Mr. Neeraj Khanna, Advocate for the appellant.
None for respondents No.1 to 4.
Mr. Surender Saini, Advocate for respondent No.5.
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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 10.4.2009 passed by the Motor Accidents Claims Tribunal, Rohtak whereby compensation has been assessed on account of death of Bajinder in a motor vehicular accident that took place on 07.02.2006.

Counsel for the appellant would inform that appeal has been filed to assail liability of the insurance company on the premise that cover note, copy of which is Ex.R2 was not issued by the insurance company or to say that the same is fake one and as such, the insurance company has wrongly been fastened with liability to pay compensation.

Counsel for respondent No.5, in response to order dated 14.1.2020 passed by this Court, would state that despite his having sent a communication, respondent No.5 has not contacted him. However, he would state that para 6 of the award makes reference to insurance policy marked as Ex.R2.

Counsel for the appellant would argue that the insurance company examined Sudhir Gulati, Assistant Manager, National Insurance Co. Ltd., Faridabad to prove that cover note bearing No.0227250 was not issued for the period 11.02.2005 to 10.02.2006 and the cover note book bearing cover notes from Sr. Nos.0227244 to 0227250 was received in their office on 25.02.2005, therefore, question of issuance of cover note bearing No.0227250 on 11.02.2005 does not arise.

Unfortunately, the records in this case got burnt in a fire incident in the record room of this Court. Counsel for the appellant is not very sure about the document which was marked as Ex.R2 before the Tribunal. In para 6 of the award, there is reference that Sh. Bhagwan examined himself as RW1 and placed on record driving licence Ex.R1 and respondents closed their evidence after tendering insurance policy Ex.R2. Counsel for the appellant has read findings of the Tribunal particularly para 14 thereof in extenso but unable to point out if there is any reference in the award that Ex.R2 refers to cover note No.0227250. In the given circumstances, the appellant cannot derive any advantage to its contention from testimony of Sudhir Gulati to contend that there was no insurance of the offending vehicle, thus, the insurance company is not liable to pay compensation.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs.

06.03.2020 **(REKHA MITTAL)**
ashok **JUDGE**
Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No