IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212 FAO-6114-2014 (O&M)

Date of decision: 07.02.2020

GURDEV SINGH ... Appellant

Versus

MANAGING DIRECTOR, SHRI RAM GENERAL INSURANCE CO. LTD & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Manreet Kaur, Advocate for
Mr. Rajeev K. Kapila, Advocate for the appellant.
Mr. Rajbir Singh, Advocate for insurance company.
None for respondent No.2.

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REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 04.04.2014 passed by the Motor Accidents Claims Tribunal, Hoshiarpur whereby Shri Ram General Insurance Co. Ltd. has been exonerated of liability to pay compensation primarily on the ground that the vehicle in question was not insured with the aforesaid insurance company.

The Tribunal, on a detailed consideration of copy of cover note produced on record, has recorded its observations in para 35 of the award to the following effect:-

> xx xx As the onus was on the owner of the vehicle to have proved that the vehicle was insured, a perusal of the file would go to show that in this case owner has miserably failed to prove the same. There is no explanation as to why he has not examined his own employee Baljit Singh who was best person who would come and say from where he has purchased the insurance policy. There is no receipt, no amount has been mentioned either in the affidavit or in the written statement as to how much amount was paid by the owner for purchasing the policy. In case titled as Bakshish Singh and ors. Vs. Balwinder Singh and ors, reported vide 2013(5) RCR (Civil) 95, our own Hon'ble High Court has held that onus to prove that there was effective insurance policy is on the owner. Hence, in these circumstances, issue does not stand proved in

> favour of respondents No.1 and 2. As such, the findings of this issue goes in favour of insurance company respondent No.3 and against the respondents No.1 and 2.

Counsel for the appellant is not in a position to dispute aforesaid factual findings to the effect that cover note which is propounded by the appellant (respondent No.2 therein) does not bear branch name, branch code, IMD code and so called agent has not signed, affixed any seal on the same. I have seen copy of cover note available on record and observations made by the Tribunal are clearly borne out on the face of document. In this view of the matter, I do not find any reason to intervene in findings of the Tribunal on the basis whereof it has been held that insurance company is not liable to pay compensation by way of indemnification of the so called insured/owner of offending vehicle.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed.

07.02.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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