IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

224 FAO No.3642 of 2016 (O&M)

Date of decision: 08.01.2020

SATPAL SINGH AND ANR ... Appellants

Versus

M/S MAGMA HDI GEN INS CO. LTD AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ravinder Sharma, Advocate for the appellants.
Mr. Vishal Aggarwal, Advocate for insurance company.
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<u>REKHA MITTAL, J. (Oral)</u>

CM No.12674-CII-2016

Heard.

Allowed as prayed for. Delay of 155 days in filing the appeal stands condoned.

CM No.8609-CII-2019

Heard.

Allowed as prayed for. Annexure P1 is taken on record, subject to just exceptions.

Main Case

The driver and owner of offending vehicle i.e. truck No.HR-67-6124 are in appeal against award dated 03.07.2015 passed by the Motor Accidents Claims Tribunal, Chandigarh to the limited extent of allowing recovery right to the insurance company on the issue of route permit.

Counsel for the appellants would inform that the appellants filed application under Section 151 CPC for placing on record verification report of permit Annexure P1 (CM-8609-CII-2019). It is further submitted that as offending vehicle had a valid route permit, findings of the Tribunal conferring right of recovery upon the insurance company cannot be allowed to sustain.

Counsel representing the insurance company would fairly concede that on verification, the route permit possessed in respect of the offending vehicle has been found to be valid.

Taking into consideration that the vehicle had a valid route permit on the day of accident, findings of the Tribunal recorded in para 25 under issue No.4 cannot be allowed to sustain and accordingly set aside. As a natural corollary, the insurance company shall be jointly and severally liable to pay compensation without any right of recovery.

Before parting with this order, it is pertinent to note that the Tribunal has allowed right of recovery even against driver of the offending vehicle but without appreciating that there is no privity of contract between the driver and insurer, therefore, question of driver having violated the terms and conditions of insurance policy cannot arise.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

08.01.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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