

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1910

FAO No.9098 of 2014 (O&M)

Date of decision: 04.03.2020

New India Assurance Co. Ltd.

... Appellant

Versus

Smt. Santa @ Santosh and ors.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. RC Kapoor, Advocate for insurance company.

Mr. Surinder Dagar, Advocate for claimants.

None for respondents No.4 and 5.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 14.08.2014 passed by the Motor Accidents Claims Tribunal, Palwal whereby compensation has been assessed on account of death of Om Parkash @ Ombir in a motor vehicular accident that took place on 04.06.2011.

Counsel for the appellant would inform that appeal has been filed to assail the award on the ground that Om Parkash (since deceased) was responsible for the accident, therefore, claimants are not entitle to get compensation for negligence attributed to the deceased.

Another submission made by counsel is that as licence possessed by Om Parkash @ Ombir was found to be fake, in view of testimony of Rakesh RW1, an official of Licensing Authority, Gurgaon, the insurance company is entitle to have right of recovery against the insured after payment of compensation to the claimants.

The first contention raised by counsel for the appellant is not meritorious when examined in the light of judgment of Hon'ble the Supreme Court **United India Insurance Company Ltd. Vs. Sunil Kumar and another, 2018(1) RCR (Civil) 680.**

Perusal of findings of the Tribunal on issue No.3 would reveal that the Tribunal has not adverted to testimony of Rakesh RW1 for deciding the question of validity or otherwise of driving licence of Om Parkash. In the given circumstances, it would be in the fitness of things that findings of

the Tribunal on issue No.3 are set aside and the matter be remitted to the Tribunal for decision on issue No.3 afresh on the basis of materials on record.

In view of what has been discussed hereinabove, the appeal stands disposed of. Findings of the Tribunal on issue No.3 are set aside and the matter is remitted to the Tribunal for deciding issue No.3 afresh on the basis of materials on record. Parties i.e. appellant and insured through their counsel are directed to appear before the Tribunal on 22.04.2020. The Tribunal shall dispose of the question of driving licence within a period of three months of the parties putting in appearance. Since the dispute of driving licence is inter se the insured and insurer, the Tribunal would not bother the claimants and other respondents therein for deciding the said issue. The claimants shall be entitle to realise the compensation awarded in their favour.

04.03.2020

ashok

Whether speaking/reasoned:

Whether reportable:

(REKHA MITTAL)

JUDGE

Yes / No

Yes / No