109

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.886 of 2020 (O&M)
Date of Decision: 17.02.2023

National Insurance Company Limited ..…...Appellant

V/s.

Jaswant Singh and Others …......Respondents

CORAM: HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. R.C. Gupta, Advocate for the appellant.

Ms. Harman Preet Kaur, Advocate for the respondents.

***

B.S. Walia, J (Oral)

[1] Challenge in the instant appeal by the Insurance Company is to the award passed by the learned Motor Accident Claims Tribunal, Chandigarh awarding compensation and directing the Insurance Company to make payment of the same but declining it the right to effect recovery of the payment to be so made to the claimants, from the owner/ insured of the offending vehicle.

[2] Learned counsel contends that the offending vehicle was purchased on 18.11.2016 and was issued temporary registration valid for 30 days in accordance with the provisions of Section 43 of the Motor Vehicles Act but after the expiry of period during which the temporary registration was valid, the owner of the offending vehicle did not get permanent registration for the offending vehicle till 13.11.2017 while in the interregnum, during which the vehicle was not having any registration whether temporary or permanent, the vehicle met with an accident on 26.10.2017.

[3] Learned counsel contends that in the circumstances the award to the extent it denies right of recovery of the compensation to be paid by the

Insurance Company to the claimant from the owner / driver of the offending vehicle on account of plying of a vehicle on a public road without registration constituting a fundamental breach of terms and conditions of the policy contract, besides being contrary to the provisions of Sections 39 and an offence under section 192 of the Motor Vehicles Act,therefore the award to the extent it denies the right of recovery is legally unsustainable in view of the law laid down by Hon'ble the Supreme Court in "**Narinder Singh Vs. New India Assurance Company Limited and Others"**, in Civil Appeal No.8463 of 2014 arising out of SLP (Civil) No.26308 of 2013.

[4] A perusal of the decision in Narinder Singh's case (supra) reveals that as on date of accident, the insured vehicle was not having any registration whether temporary or permanent as stipulated under Section 43 or 39, of the Motors Vehicle Act and the claim having been repudiated by the Insurance Company on said ground, the insured-claimant approached the Consumer Forum which allowed the claim of the insured. However, the appeal filed by the Insurance Company was allowed while that of the complainant-insured was dismissed and the decision of the State Commission was upheld by the National Commission. Hon'ble the Supreme Court while holding that using a vehicle on public road without registration not only amounted to an offence punishable under Section 192 of the Motor Vehicles Act but also fundamental breach of the terms and conditions of the policy contract, dismissed the appeal filed by the complainant-insured by holding that there is no infirmity in the order passed by the State Commission or the National Commission. Same is the position in the instant case.

[5] Admittedly, as on date of accident, the temporary registration of the vehicle had expired and no permanent registration has been obtained. The same was obtained only after the accident which had took place on 26.10.2017 whereas the registration of the vehicle was obtained on 13.11.2017. Consequently, the finding of the Tribunal that inability of the Insurance Company to show that non obtaining of the registration of the vehicle in question within one month from the date of purchase of vehicle was mandatory and non compliance thereof would amount to breach of any conditions stipulated by the Insurance Company, is legally unsustainable. Learned Tribunal lost sight of the fact that the temporary registration of the vehicle granted on 18.11.2016 was valid only for a period of 30 days, thereafter, the vehicle could not ply on a public road in derogation of Section 39 of the Motor Vehicles Act which prohibits the plying of the vehicle on a public road sans registration.

[6] learned counsel for the respondents has not been able to controvert the aforementioned factual as well as position of law.

[7] In view of the position as noted above as well as judgment of Hon'ble the Supreme Court, the aforementioned finding of the learned Tribunal is set aside, award is modified and the appellant-Insurance Company is held entitled to take out proceedings in accordance with law to recover compensation paid by it to the claimants, from the owner/insured.

[8] Appeal allowed in the aforementioned terms.

17th February, 2023 **(B.S. WALIA)**
Sonia Puri **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No