IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2733-2001 (O&M)
Date of Decision: September 04, 2023

National Insurance Company Ltd.

...Appellant

VERSUS

Rattan Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Sanjeev Pabbi, Advocate
for the appellant.

Mr.R.S.Budhwar, Advocate
for respondents No.1 and 2.

Mr.Ravi Sharma and Mr.Ravinder Kumar Panchal, Advocates
for respondents No.3 and 4.

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ARCHANA PURI, J.

The present appeal has been filed by the National Insurance Company Ltd., thereby, assailing the Award dated 15.02.2001 passed by learned Motor Accident Claims Tribunal, on account of death of Tarsem alias Sham Lal, in a motor vehicular accident, which took place on 04.03.1999

On appraisal of the evidence brought on record, learned Tribunal had reached the conclusion, about the accident to have been taken place, on account of rash and negligent driving of truck tralla bearing registration No.HR-37-5121, being driven by respondent No.1-Sunil Kumar.

In view of the same, considering the earnings of the deceased to be Rs.2,400/- per month, the compensation was worked upon and it was granted to the extent of Rs.1,59,300/-, together with costs and interest.

Feeling aggrieved by the aforesaid Award, rival appeals were filed by the National Insurance Company as well as by the claimants.

The present appeal has been filed by the National Insurance Company thereby, alleging about insurance policy to be result of fraud having committed upon the insurance company and to so establish the aforesaid fact, along with the appeal, an application under Order 41 Rule 27 CPC, for production of additional evidence has been filed to prove the report dated 15.05.2001 made by the investigating officer of the insurance company.

However, it is pertinent to mention that from the record of learned Tribunal, it is evident that vis-a-vis, the issue related to the violation of terms and conditions of the insurance policy, specifically framed, no evidence of any kind was led by the insurance company and resultantly, the aforesaid issue was decided against the insurance company. Even though, it is now pleaded about report of the investigating officer of the insurance company to have been furnished, after the pronouncement of the Award by learned Tribunal, but however, this matters not much, as the investigation, if so, was being conducted, at least, it should have been brought to the notice of learned Tribunal, at relevant time and time should have been sought for the decision of the case or should have examined and brought on record any material relating to the assertion, as now made in the application, for additional evidence.

In the given circumstances, there was no diligence exercised, at the behest of the insurance company, in production of the evidence.

Moreover, it is also pertinent to mention that rival appeal bearing FAO-2872-2001 was also filed by the claimants, which was decided on 01.10.2019 by this Court. In the said appeal, even the insurance company was represented by a counsel. Though, the said appeal was for enhancement of the compensation, at the behest of the respondents-claimants, but however, therein, though, learned counsel for the insurance company had made appearance, but no issued was raked up, vis-a-vis, the insurance policy in question to be the result of fraud committed upon the insurance company.

Taking into consideration the aforesaid factors, no case is made out for allowing the application under Order 41 Rule 27 CPC. As such, the aforesaid application is hereby dismissed.

In the light of the aforesaid, there is no material coming forth to so substantiate the version of fraud, as now asserted in the grounds of appeal. The amount of compensation, as already granted, has since been enhanced by this Court.

Consequently, there is no merit in the present appeal and the same is hereby dismissed.

September 04, 2023 **(ARCHANA PURI)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**