203 **2023:PHHC:080647**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3247-2015 (O&M)
Date of decision: 01.06.2023

MOHIT KUMAR MISHRA AND ANR …Appellants

VS

GIAN SINGH AND ANR …Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Saurabh Dalal, Advocate
For the appellants.

Mr. Sahil Chowdhary, Advocate for
Mr. Shiv Kumar, Advocate,
For respondent No.1-claimant.

Mr. Amrinder Singh Sidhu, Advocate,
For respondent No.2-Insurance Company.

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ARUN MONGA, J. (ORAL)

Appellants (driver and owner) of alleged offending truck/ vehicle in question are before this Court for setting aside the impugned award dated 19.02.2015 passed by learned Motor Accidents Claims Tribunal, Palwal vide which compensation of Rs.1,90,912/- along with interest @ 7% was awarded to claimant on account of charges of repairing of damage to claimant's tractor caused in the accident by the offending vehicle of the appellants herein and ordered to be paid by appellants.

2. Learned counsel for appellants submits that impugned award is liable to be modified to the extent that the offending truck was insured and the driver held requisite valid driving license, and hence the insurance company may be held liable to pay and appellants may be exonerated from

payment of any amount to claimant/respondent No.1 as the appellants were nowhere at fault and had not violated any terms or conditions of the license or insurance policy.

3. In course of hearing, a Coordinate Bench of this Court presided over by Sneh Prashar, J. (as she then was in this Court) passed following order on 26.11.2015:

> *"Learned counsel for respondent No.2 seeks some time to verify the insurance policy on the basis of which the appellants had filed the instant appeal.*
>
> *Copy of the policy had been supplied to learned counsel for respondent No.2 in the Court today.*
>
> *Posted to 21.03.2016."*

3.1 Thereafter, matter was taken up for hearing on numerous occasions, but time was sought repeatedly for carrying out verification of the Insurance Policy in question.

4. On resumed hearing today, learned counsel for Insurance Company states that policy in question (Annexure P-1) has been verified and the same has been found to be genuine and not a fake one. He submits that said insurance policy of the offending vehicle was since not produced before learned Motor Accidents Claims Tribunal, Palwal in proper fashion, therefore, there was no occasion for the Insurance Company to verify the same.

5. Having heard the arguments, I am of the view that once Insurance Policy of the offending vehicle has been found to be genuine, I see no reason as to why benefit of the same be not given to the claimant by making the Insurance Company liable for the compensation awarded by learned Tribunal.

6. Accordingly, the impugned award is modified and it is directed that the amount of compensation along with same rate of interest i.e. 7% per

annum as awarded by the learned Tribunal from 26.11.2015 onwards shall be paid by respondent No. 2-Insurance Company within a period of 60 days from today failing which additional compensatory interest @ 3% per annum shall be payable. The interest @ 7% per annum on the principal amount of compensation from 07.02.2013 (the date of filing the claim petition) upto 25.11.2015 shall also be paid by the insurance company within a period of 60 days from today failing which additional compensatory interest @ 3% per annum shall be payable.

7. Disposed of, accordingly.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

01.06.2023
vandana

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