210 RA-CR-206-CII-2015 in FAO-3987-2003 **2023:PHHC:149128**
RANI AND ORS. VS BALBIR SINGH AND ANR.

Present : Mr. Sandeep Goyal, Advocate
for the applicant-respondent No.1.

Mr. Malwinder Singh Virk, Advocate,
for the non-applicant/appellants.

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The application for review is sought by the owner/driver of the offending three wheeler bearing registration No.HR-45-4430 on the ground that right of recovery granted by the Court to the insurance company is erroneous as the Court has not given any reason in its judgment dated 7.8.2015 as to why such recovery right was provided for to the insurance company.

Brief facts of the case are that the claim petition filed by the claimants being legal heirs/dependents of deceased-Partap Singh was dismissed by MACT, Karnal vide order dated 6.11.2002 but the appeal filed against the said order by the claimants was allowed by this Court vide judgment dated 7.8.2015 in FAO-3987-2003 but while passing the said judgment, recovery rights were awarded in favour of the insurance company and against the owner/driver. Being aggrieved, the driver/owner filed review application and the same was allowed by this Court vide order dated 20.10.2015 whereby clause of recovery right in the judgment dated 7.8.2015 was set aside while keeping the remaining award intact. After passing of the said review order, the insurance company approached this Court that said order dated 20.10.2015 was passed without issuing any notice to the insurance company and resultantly, review order dated 20.10.2015 was set aside vide order dated 24.7.2019 and the review application filed by the owner/driver was directed to be re-heard and decided on merits.

I have heard counsel for the parties.

In the present case, recovery rights were given to the insurance company vide judgment dated 7.8.2015 on the ground that the driver was having license to drive light motor vehicle but at the time of the accident, he was driving three wheeler. There is no dispute regarding the fact that the aforesaid driving license possessed by the driver to drive light motor vehicle was valid and effective as on the date when the accident in question had taken place. In light of law laid down by Hon'ble Apex Court in **Mukund Dewangan** v. **Oriental Insurance Company Limited** 2017(4) RCR (Civil) 111, I find that the provision for recovery rights being given to the insurance company in the present case vide judgment dated 7.8.2015 is not justified under the circumstances and deserves to be reviewed.

Consequently, the present review application is allowed and clause whereby recovery rights were granted to the insurance company vide judgment dated 7.8.2015 in FAO-3987-2003 is hereby set aside while rest of the award shall remain intact.

(KARAMJIT SINGH)
JUDGE

November 21, 2023
Paritosh Kumar