IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2641-2017 (O&M)
Reserved on : 28.11.2024
Date of Decision : 10.12.2024

Tata AIG General Insurance Company Ltd. ....Appellant

VERSUS

Smt. Mitlesh and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sachin Ohri, Advocate for the appellant.

Mr. S.S. Khurana, Advocate for respondent Nos.1 to 4.

Mr. Vinod Chaudhri, Advocate for respondent No.7.

ALKA SARIN, J.

1. Present appeal has been filed by Tata AIG General Insurance Company Ltd. aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as the 'Tribunal') vide award dated 05.12.2016 whereby an amount of Rs.30,000/- was awarded to the claimants on account of damages to the motorcycle bearing registration No.HR-43A-7220.

2. The brief facts relevant to the present *lis* are that on 13.11.2012, Madan Lal alongwith one Rajesh was coming to village Sudharana, Tehsil Kosli on a motorcycle bearing registration No.HR-43A-7220 which was being driven by him at a normal speed and by observing all traffic rules. At about 02.15 pm, when they reached near Kavita Nursing Home, a truck bearing registration No.HR-61-9071 (hereinafter referred to as the 'offending vehicle') came from the behind and hit the motorcycle in a rash

and negligent manner resulting in death of deceased-Madan Lal; causing multiple injuries to Rajesh; and damages to the motorcycle. FIR No.245 dated 13.11.2012 under Sections 279, 337, 338, 304-A of the Indian Penal Code, 1860 was registered at Police Station Kosli.

3. The claim petition filed by the claimants was contested by the driver and owner of the offending vehicle by filing a joint written statement wherein it was averred that no accident as alleged had taken place with the offending vehicle and that the offending vehicle was comprehensively insured with the Oriental General Insurance Company Ltd. and further that a false FIR was got registered against them just to get the compensation. The Tata AIG General Insurance Company Ltd. filed its separate written statement averring therein that the policy No.0100687813 was issued by them in the name of Rajbir Singh qua the vehicle bearing registration No.HR-61-9071 for a period commencing from 13.12.2012 to 12.12.2013. It was further averred that since the accident took place on 13.11.2012, therefore, the cover-note was not valid on the date of the accident. It was further averred that during investigation it was found that the said vehicle was insured with M/s Oriental General Insurance Company Ltd. vide policy No.215390/31/2012/2445 from 13.12.2011 to 12.12.2012. It was further pleaded that on the basis of the policy issued by the Oriental General Insurance Company Ltd., the Tata AIG General Insurance Company Ltd. had issued a cover-note on 12.12.2012. In the written statement filed by the Oriental General Insurance Company Ltd. it was averred that on 13.11.2012 the driver of the offending vehicle did not have the valid and effective driving licence and that the particulars of the policy have not been confirmed till date and, hence, the offending vehicle was not insured with them.

4. The argument of learned counsel for the Tata AIG General Insurance Company Ltd. is that the cover-note which had been issued by them was not valid on the date of the accident and the offending vehicle was insured with the Oriental General Insurance Company Ltd. for the said period. It is further the contention that copy of the cover-note, which is retained by the Insurance Company and was produced on the record, showed that the validity of the said cover-note was from 13.12.2012 to 12.12.2013 and therefore, for the accident that took place on 13.11.2012, the Tata AIG General Insurance Company Ltd. could not be held liable.

5. *Per contra* Mr. S.S. Khurana, Advocate appearing on behalf of the injured-claimant and Mr. Vinod Chaudhri, Advocate appearing on behalf of the Oriental General Insurance Company Ltd. have argued that the Tribunal had categorically held that the cover-note (Ex.R1), which was found in the offending vehicle, was never denied by the Tata AIG General Insurance Company Ltd. The said cover-note showed that the offending vehicle was insured from the period 04.11.2012 to 03.11.2013 thereby covering the period when the accident took place. It is further the contention that neither in the written statement nor in the statement of the Manager of the Tata AIG General Insurance Company Ltd. it was ever denied that the cover-note (Ex.R1) was issued. Infact, it was never the case of the Tata AIG General Insurance Company Ltd. that the cover-note (Ex.R1) was forged, fabricated or manipulated in any manner. Learned counsel have further argued that a categoric finding has been recorded by the Tribunal after affording due opportunity to Tata AIG General Insurance Company Ltd. to lead their evidence that the cover-note (Ex.R1) was not valid however it never denied having issued the same. Further still, no evidence was led by

the Tata AIG General Insurance Company Ltd. to show that the document was forged, fabricated or manipulated.

6. Heard.

7. In the present case, dealing with the argument raised by learned counsel appearing on behalf of Tata AIG General Insurance Company Ltd. that the offending vehicle was never insured with it, the said argument deserves to be rejected on the ground that the cover-note (Ex.R1), which was found in the offending vehicle, was never denied by Tata AIG General Insurance Company Ltd. The cover-note (Ex.R1) reveals that the offending vehicle was insured from 04.11.2012 to 03.11.2013 thereby covering the period when the accident took place. Neither in the written statement nor in the statement of the Manager of the Tata AIG General Insurance Company Ltd. was it ever denied that the cover-note (Ex.R1) was not issued by them. It is further to be noted that it has never been the case of Tata AIG General Insurance Company Ltd. that the cover-note (Ex.R1) was forged, fabricated and manipulated in any manner. That being so, the argument of learned counsel for the Tata AIG General Insurance Company Ltd. cannot be accepted.

8. In view of the above, I do not find any merits in the present appeal and the same is dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

10.12.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO