IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-2530-1998 (O&M)
Date of decision : 11.07.2025

Oriental Insurance Company Ltd. ...... **Appellant**

versus

Bholi Ram and others ...... **Respondents**

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vinod Choudhari, Advocate
for the appellant.

Ms. Neha Jain, Advocate
for the respondents.

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<u>PANKAJ JAIN, J. (Oral)</u>

1. Insurance company is in appeal against order dated 21.08.1998 passed by Assistant Labour Commissioner exercising powers as Commissioner under Workmen Compensation Act 1923, whereby the claimants have been awarded compensation of ₹1,92,140/- along with interest @ of 12% per annum from the date of accident till the actual dispersal of the amount.

2. Claim petition was filed on account of death of Surinder Pal Singh, who was employed as Driver with respondent No.4 and stated to have died in an accident on 18.01.1995 at the age of 37 years.

3. The findings recorded by the commissioner have been assailed primarily on two grounds. Mr. Choudhari summits that there is no privity of contract between insurance company and Jaswant Singh. The policy was purchased in the name of Piare Lal. The insurance

company is thus not liable to indemnify the insured. Mr. Choudhari further summits that post mortem report was not produced in evidence to prove the causal relationship between death of the deceased and the accident arising out of and during the course of employment.

4. I have heard counsel for the parties and have carefully approached records of the case.

5. The issue with respect to non-transfer of policy and the liability of insurance company where the vehicle stands transferred stands settled by Supreme Court in the case of ***G. Govindan v. New India Assurance Co. Ltd.,*** **(1999) 3 SCC 754** observing as under:**:**

> **"**8. In *Madineni Kondaiah* v. *Yaseen Fatima* [AIR 1986 AP 62 : (1986) 60 Comp Cas 762 (FB)] a Full Bench of the Andhra Pradesh High Court had occasion to consider an identical question. The leading judgment was by Raghuvir, J. Kodandaramayya, J., in his separate concurring judgment, had also analysed the relevant provisions of the Act, compared the provisions of the Act with the provisions in the English Act and after noticing the judgments of the courts in India and England, held as follows:
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> "A perusal of Section 94 clearly discloses that the statute intended to give protection to a third party in respect of death or bodily injury or damages to their property while using the vehicle in a public place. Hence the insurance of the vehicle under Section 94 read with Section 95 is made compulsory. Those two provisions do not extend the compulsory insurance to the vehicle or to the owner. In fact these two provisions made exception to protect the life or limb of the driver of the vehicle or the passenger in the

vehicle except public service vehicle. Thus, it is seen the compulsory insurance is for the benefit of third parties. Hence, it is clear that the insurance policy covering three kinds of risks i.e. person (owner), property (vehicles) and third parties is clearly in the nature of a composite one. The public liability (third-party liability) alone is compulsory. While considering whether the transfer of the vehicle would put an end to the policy, we must see whether such a composite policy will lapse putting an end to all the three kinds of risks undertaken by the insurance company. For this purpose Section 95(5) must be looked into:

'Notwithstanding anything elsewhere contained in any law, a person issuing a policy of insurance under this section shall be liable to indemnify the person or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of persons.'

This section is clearly based upon provision of English statute. This section is analogous to the provision in England where the third party's rights against Insurers Act, 1930 was enacted to confer on third parties rights against the insurer of the third-party risks. The present Act made a specific provision in case where the insurer becomes insolvent or dies (vide Sections 101 and 102 of the Act) to obviate any doubt or dispute in respect of such events. Section 95(5) intended to cover two legal objections, firstly that no one who was not a party to a contract could bring an action on a contract, secondly, that a person who has no interest in the subject-matter of an insurance can claim the benefit of insurance. Thus this provision puts beyond doubt removing these two objections and making an exception to the general law of contract. Now the question is whether such rights secured to the third party by insuring the vehicle can be defeated by transferring the vehicle during the period when the policy is in force. It is significant to note that Section 95 requires the insurance of the vehicle. Once the vehicle is covered by the insurance not only the owner but any person can use the vehicle with his permission. Section 94 does not require that every person that uses the vehicle shall insure in respect of their separate use. The decided cases now held that on transfer the policy will lapse and a third party cannot enforce the policy against the insurance company. *We must make it clear that there are two third parties when such transfer took place. One is a transferee who is a third party to the contract and the other for whose risk the vehicle is insured. We have no hesitation to hold that the transferee who is a third party to the contract cannot secure any personal benefit under the policy unless there is a novation i.e. the insurance company, the transferor of the vehicle, and the transferee must agree that the policy must be assigned to the transferee so that the benefit derivable, or derived under the policy by the original owner of the vehicle, the policy-holder can be secured by the transferee. Thus, it is clear under a composite policy, covering the risk of property, person, third-party risks, the transferee cannot enforce the policy without the assignment in his favour so far the policy covers the risk of the person and property. He has no remedy against the Insurance Company.*

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It is incorrect to assume that the moment the title of the vehicle passes to the transferee the statutory obligation under Section 94 ceases and the original owner is no longer guilty of causing or allowing the purchaser to use the vehicle. The question is when does the statutory liability cease? *The mere passing of title in the vehicle to the transferee will not put an end to this liability*. For this purpose we must examine two more provisions of the Act. Under Section 31 the transferor shall within 14 days of the transfer report the fact of transfer to the registering authority within whose jurisdiction the transfer is to be effected and shall simultaneously send a copy of the said report to the transferee and within forty-five days of the transfer forward to the registering authority no objection certificate obtained by him under Section 29-A. Section 29-A contemplates issuing of no objection certificate both on the occasion of assignment of a new registration mark and also while transferring the motor vehicle. The registering authority is enjoined to issue a certificate within a period of thirty days and if no orders are passed the registering authority shall be deemed to have granted the no objection certificate. The failure to comply with Section 31 is made punishable under Section 112. However, as an alternative measure it also provided under Section 31(1-A) that if the transferor or transferee fails to comply with the requirements of Section 31 they have to pay a fine of Rs 100 or the prescribed amount considering the period of delay on their part by way of penalty. It is pertinent to note that Section 31 was amended by Act 100 of 1956. Under Section 31 as it stood prior to this amendment in 1956 only the transferee was required to report the transfer of the ownership and was expected to forward a certificate of registration to the registering authority within thirty days of the transfer. Prior to this amendment there was no statutory obligation on the transferor as is now provided in sub-clause (*a*) of sub-section (1) of Section 31 to notify the transfer to the registering authority within whose jurisdiction the transfer is effected. *Thus we see till the transferor fulfils the statutory obligation under Section 31 his liability continues*. Further he is the ostensible owner of the vehicle so long the registration is not changed. The liability to pay tax continues irrespective of his rights against the transferee for reimbursement. In fact it was ruled in *Northern India General Insurance Co. Ltd.* v. *Kanwarjit Singh* [1973 ACJ 119 : AIR 1973 All 357] that a registered owner would have sufficient interest to effect insurance because he is the ostensible owner. The question raised in that case was whether the registration in favour of benamidar is valid when the registered owner of the vehicle is only benamidar when the real owner never obtained the insurance. It was held that the registered owner has sufficient interest to effect insurance because he is the ostensible owner and there is nothing in Section 94 which could be interpreted to mean that it is only the real owner who could effect the insurance. Any person who uses the vehicle or allows any other person to use the vehicle could also get the insurance effected. Thus, it is seen the public liability to notify the transfer and secure no objection certificate under Section 31 read with Section 94, would make the original owner retain the insurable interest. *The insurable interest in this case is not the proprietary interest but the public liability, not to run the vehicle* *or cause or allow any person to run the vehicle without insurance and also to notify the transfer of such vehicle to the registering authority. So long such obligation continues notwithstanding the cession of proprietary interest, the insurable interest which is the foundation for the continuance of the operation of the policy stands.*

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Thus, we are clearly fortified in our view that the insurable interest in the property is not necessary in the case of public liability insurance. The test is whether the liability under the statute ceased or not notwithstanding the passing of title and hence we respectfully dissent with the view expressed by various High Courts that on the sale of the vehicle the insurable interest ceases and the policy lapses. We agree that any claim of the transferee in respect of his property and his person cannot be enforced against the insurance company. He being a stranger he cannot have any claim against the insurance company. *But the third-party risk is concerned so long the obligations under the statute are not fulfilled, as contemplated under Section 31 read with Section 94, he continues to have the insurable interest till such obligations are fulfilled.*

Any prudent purchaser should take steps to get the policy transferred to him under Section 103. The insurer is bound to accept the transfer and can only refuse to consent on specified grounds. It is clearly an impracticable view to take that on passing of property in the vehicle, the policy lapses and the obligation under Section 94 of the Act ceases. In fact as observed by the Supreme Court the policy is to the vehicle and hence normally it should run with the vehicle. It is just to expect a reasonable time for the transferor to make the necessary arrangement to notify the transfer under Section 31 and secure the certificate under Section 29-A within the time mentioned in those provisions. If this is not allowed, the moment the vendor receives the money and puts the vehicle in possession of the transferee, the latter is not in a position to use the vehicle in view of Section 94 till a fresh policy is obtained. He cannot take the vehicle to his house passing through any public place. When the transferor is liable to pay penalty under Section 31 and also liable to be prosecuted under Section 112 for not notifying the transfer, *we are clearly of the opinion such statutory liability makes him to retain the insurable interest as the liability subsists till he discharges the statutory obligations*. We disagree with the view expressed in *N. Kanakalakshmi* v. *R.V. Subba Rao* [(1972) 1 APLJ 249] .

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The registration of the vehicle in the name of the transferee is not necessary to pass title in the vehicle. Payment of price and delivery of the vehicle makes the transaction complete and the title will pass to the purchaser. *When the policy of insurance obtained by the original owner of the vehicle is a composite one covering the risks for his person, property (vehicle) and the third-party claim, on passing of title the transferee cannot enforce his claim in respect of any loss or damage to his person and vehicle unless there is a novation. So far the third-party risk is concerned the proprietary interest in the vehicle is not necessary and the public liability continues till the transferor discharges the statutory obligation under Sections 29-A and 31 read with Section 94 of the Act. Till he complies with the* *requirement of Section 31 of the Act the public liability will not cease and that constitutes the insurable interest to keep the policy alive in respect of the third-party risks are concerned. It must be deemed that the transferor allowed the purchaser to use the vehicle in a public place in the said transitional period and accordingly till the compliance of Section 31, the liability of the transferor subsists and the policy is in operation so far it relates to the third-party risks*. We answer the second question accordingly."

(emphasis supplied)

12. The heading of Chapter VIII of the old Act reads as "Insurance of Motor Vehicles Against Third-Party Risks". A perusal of the provisions under Chapter VIII makes it clear that the legislature made insurance of motor vehicles compulsory against third-party (victims) risks. This Court in *New Asiatic Insurance Co. Ltd.* v. *PessumalDhanamal Aswani* [AIR 1964 SC 1736 : 34 Comp Cas 693] after noticing the compulsory nature of insurance against the third-party risks, observed that once the Company had undertaken liability to third parties incurred by the persons specified in the policy, the third parties' right to recover any amount under or by virtue of the provisions of the Act is not affected by any condition in the policy.

13. In our opinion, both under the old Act and under the new Act the legislature was anxious to protect the third-party (victim) interest. It appears that what was implicit in the provisions of the old Act is now made explicit, presumably in view of the conflicting decisions on this aspect among the various High Courts.

14. Undoubtedly the Full Bench decision of the

Delhi High Court in *Anand Sarup Sharma* v. *P.P. Khurana* [1989 ACJ 577 (Del) (FB)] and also the Full Bench decision of the Karnataka High Court in *National Insurance Co. Ltd.* v. *Mallikarjun* [AIR 1990 Kant 166 : ILR 1990 Kant 1 (FB)] differed from the view taken by the Andhra Pradesh High Court in *Kondaiah case* [AIR 1986 AP 62 : (1986) 60 Comp Cas 762 (FB)] and held that the third-party liability of the insurer comes to an end on the transfer of vehicle by the insured to someone else unless the procedure prescribed for transfer of policy was fulfilled. As noticed earlier, learned counsel on both sides brought to our notice a number of judgments of different High Courts taking divergent views. We do not feel it necessary to refer to all those decisions in view of the Full Bench judgments of three High Courts noticed earlier.

15. As between the two conflicting views of the Full Bench judgments noticed above, we prefer to approve the ratio laid down by the Andhra Pradesh High Court in *Kondaiah case* [AIR 1986 AP 62 : (1986) 60 Comp Cas 762 (FB)] as it advances the object of the legislature to protect the third-party interest. We hasten to add that the third party here will not include a transferee whose transferor has not followed the procedure for transfer of policy. In other words in accord with the well-settled rule of interpretation of statutes we are inclined to hold that the view taken by the Andhra Pradesh High Court in *Kondaiah case* [AIR 1986 AP 62 : (1986) 60 Comp Cas 762 (FB)] is preferable to the contrary views taken by the *Karnataka* [AIR 1990 Kant 166 : ILR 1990 Kant 1 (FB)] and *Delhi* [1989 ACJ 577 (Del) (FB)] High Courts even assuming that two views are possible on the interpretation of relevant sections as it promotes the object of the legislature in protecting the third-party (victim) interest. The ratio laid down in the judgment of the *Karnataka* [AIR 1990 Kant 166 : ILR 1990 Kant 1 (FB)] & *Delhi* [1989 ACJ 577 (Del) (FB)] High Courts differing from the Andhra Pradesh High Court is not the correct one.

The said view was reiterated by three judges bench in Rikhi Ram, and another versus Smt. Sukhrania and others reported as (2003) 3 SCC 97 where the bench approved of the view taken in G Gobind's case, Supra holding that :

6. On an analysis of Sections 94 and 95, we further find that there are two third parties when a vehicle is transferred by the owner to a purchaser. The purchaser is one of the third parties to the contract and the other third party is for whose benefit the vehicle was insured. So far, the transferee who is the third party in the contract, cannot get any personal benefit under the policy unless there is a compliance with the provisions of the Act. However, so far as third-party injured or victim is concerned, he can enforce liability undertaken by the insurer.

7. For the aforesaid reasons, we hold that whenever a vehicle which is covered by the insurance policy is transferred to a transferee, the liability of the insurer does not cease so far as the third party/victim is concerned, even if the owner or purchaser does not give any intimation as required under the provisions of the Act."

6. Learned counsel for the appellant has not been able to cite any law in favour of the proposition canvassed by him. He does not dispute that separate premium was paid for driver of the vehicle. In view

of above the first plea raised by Mr Choudhari *sans merit* and is rejected.

7. Factum of accident is not denied. AW1 Daler Singh stated on oath before the Commissioner that the Van driven by deceased Surinder Pal Singh was hit by a truck. Driver of van died on the spot. To the same effect is the testimony of Claimant AW1 Bholi Rani. The said evidence has gone unrebutted.

8. Pure finding of fact has been recorded by the Commissioner after analysing the evidence on record. Mr Choudhari has not been able to point out any evidence that remain unconsidered or was misread by the Commissioner. Section 30 of the Workmen Compensation Act 1923, reads as under:-

> **"30. Appeals.—**
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> (1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:
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> (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
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> (aa)an order awarding interest or penalty under section 4A;
>
> (b) an order refusing to allow redemption of a half-monthly payment;
>
> (c) an order providing for the distribution of compensation among the dependents of a deceased employee, or disallowing any claim of a person alleging himself to be such dependent;
>
> (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or
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> (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:
>
> Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal, and in the case of an order other than an order such as is referred to

in clause (b), unless the amount in dispute in the appeal is not less than n thousand rupees or such higher amount as the Central Government may, by notification in the Official Gazette, specify:

Provided further that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Limitation Act, 1963 (36 of 1963), shall be applicable to appeals under this section."

9. This Court finds no substantial question of law involved in the present appeal, the same is thus order to be dismissed.

10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

11.07.2025
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No