(2014) 03 P&H CK 0056

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 7007 of 2011 (O&M)

The Oriental Insurance Co. Ltd. APPELLANT

Vs

Darshani Devi RESPONDENT

Date of Decision : 18-03-2014

Acts Referred:

Citation : (2015) 1 ACC 642 : (2015) ACJ 165 : (2014) 175 PLR 226

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : D.P. Gupta, Advocate for the Appellant; Kunal Garg, A.A.G. and Rohit Goswami, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Jitendra Chauhan, J.—The present appeal has been filed by the appellant-Insurance Company, challenging the impugned Award dated 05.09.2011, passed by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri. The learned counsel for the appellant contends that the deceased was neither the registered owner nor was insured under the insurance policy. The vehicle in question stands registered in the name of Virender Kumar. The deceased, Anil Kumar, had borrowed the vehicle from the registered owner and was driving the same at the time of the accident. The Personal Accident Cover is available to the registered owner, only when, he himself is driving the vehicle.

2. On the other hand, the learned counsel for the respondents-owner and driver, has vehemently opposed the present appeal.

3. I have heard learned counsel for the parties and perused the record. In the instant case, the deceased was himself driving the motorcycle. The appellant has raised a contention that his risk was not covered under the policy. It is only the registered owner whose risk was covered under the Personal Accident cover. The deceased not being the registered owner of the offending motorcycle, was not covered under the policy. As per the policy, Ex. R-2, the risk of the registered

owner-cum-driver was covered for PA coverage for a sum of Rupees one lac. Admittedly, the deceased was not the registered owner of the vehicle, so, his risk cannot be said to be covered for PA risk under the policy. Hence, for the death of the deceased, the liability could not be fastened upon the insurer. Thus, the award of the Tribunal fastening liability of Rupees one lac, on the appellant-insurance company is erroneous and is accordingly set aside. The appeal is allowed, impugned award qua the appellant-Insurance Company is set aside and the claim petition against the appellant-Insurance Company is dismissed.