(2013) 07 P&H CK 0130

In the Punjab And Haryana At Chandigarh

Case No : FAO No. 3917 of 2013 (O and M)

The Oriental Insurance Company Ltd. APPELLANT

Vs

Jagdish Khan and Others RESPONDENT

Date of Decision : 29-07-2013

Acts Referred:

Citation : (2013) 07 P&H CK 0130

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Advocate : Banni Thomas, for the Appellant;

Final Decision : Dismissed

Judgement

Vijender Singh Malik, J.

CM No. 15917-CII of 2013

1. Delay of 17 days in filing the appeal is condoned for the reasons mentioned in the application.

FAO No. 3917 of 2013

This is an appeal brought by the Oriental Insurance Company Ltd., the insurer against the award dated 19.03.2013 passed by learned Motor Accidents Claims Tribunal, Gurgaon (for short ''the Tribunal''). Learned Tribunal has held respondent No. 1 to be not having a valid and effective driving licence to drive the offending vehicle. However, learned Tribunal has not exonerated the insurance company from its liability to satisfy the award and has directed it to satisfy the same but has given right to it to recover the said amount from owner of the vehicle.

2. Learned counsel for the appellant has contended that on the finding that the driver of the offending vehicle did not possess a valid driving licence to drive the same, the insurance company should have been completely exonerated from the

liability and the liability should have been fastened upon the driver-owner of the vehicle. In this regard, he has sought support from a decision of Hon''ble Supreme Court of India in United India Insurance Co. Ltd. v. Sujata Arora and others, Civil Appeal No. 231 of 2012, decided on 10.01.2012.

3. It has been held in Sujata Arora''s case supra that if the offending vehicle was driven by a driver, who was either holding no licence or a fake licence, then it amounts to violation of the terms and conditions of the insurance policy and in that circumstance, no liability can be fastened on the insurance company.

4. The decision in Sujata Arora''s case supra does not deal with the case of 3rd party, who is seeking compensation impleading the insurance company of the offending vehicle. In such a case, reported as National Insurance Co. Ltd. Vs. Geeta Bhat and Others, it has been held that even if the licence is proved to be fake, that would not absolve the insurer to reimburse the owner of the vehicle in respect of the amount awarded in favour of 3rd party. In the said case after directing the appellant to pay the awarded amount to the claimants, it was given liberty to recover the same from the owner-driver of the vehicle in a proper proceedings in accordance with law. Learned Tribunal has rightly placed reliance on a decision of Hon''ble Supreme Court of India in Geeta Bhat''s case supra. The decision rendered by learned Tribunal is, therefore, not fallacious. The appeal is, therefore, dismissed in limine.

