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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**FAO-4489-2007 (O&M)
Date of Decision: 30.01.2025**

Oriental Insurance Company Ltd.

.....Appellant

Vs.

Kamla Devi and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Deepak Goyat, Advocate, for
Mr. Ashwani Talwar, Advocate,
for the appellant.

None for the respondents.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company for setting aside the award dated 31.07.2007 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal'), whereby an amount of Rs.2,90,000/- was awarded in MACT Case No.42 of 2007 in favour of the claimants/respondents No.1 and 2.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that on 14.02.2006 at about 11:30 A.M., Jai Pal alias Pala (since deceased) was driving a motorcycle bearing registration No.HR-03G-3248, whereas, Ramesh Kumar was the pillion rider with him. They were travelling from Fawara Chowk, Naraingarh towards Lotto Chungi, Naraingarh side. In the meantime, one new Farmtrac Tractor



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Trolley bearing Engine No.2039504 and Chasis No.2038512, being driven by respondent No.1, came from the opposite side at a very high speed in a rash and negligent manner and struck against the motorcycle. As a result thereof, both the occupants of the motorcycle fell down and received multiple grievous injuries. Thereafter, respondent No.1 ran away from the spot after leaving behind his vehicle at the spot. This accident was witnessed by Satbir Singh, Jaswinder Singh, Jarnail Singh and some other persons. Both the injured were rushed to Government Hospital, Naraingarh.

3. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

4. From the pleadings of the parties, the learned Tribunal framed the following issues:-

“i) Whether the accident resulting in the death of Jai Pal @ Pala and injuries to Ramesh Kumar was caused due to the rash & negligent driving of respondent No.1 while driving tractor-trolley Farmtrac-60 Engine Chassis No.2038512? OPP

ii) If issue No.1 is proved, to what amount of compensation and from whom the claimants are entitled to in each claim petition? OPP

iii) Whether the person who was driving the vehicle in question was not holding a valid and effective driving license at the time of alleged accident? OPR(3).

iv) Whether the claim petition is not maintainable in its present form? OPR (3).

v) Relief.”

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal has awarded an amount of Rs.2,90,000/- in



MACT Case No.42 of 2007 in favour of the claimants/respondents No.1.

Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

6. Learned counsel for the appellant-Insurance Company contends that liability of appellant-Insurance Company has wrongly been fixed by the learned Tribunal, since the offending tractor trolley was not insured with the appellant-Insurance Company.

7. There is no representation on behalf of the respondents.

8. I have heard learned counsel for the appellant-Insurance Company and perused the whole record of this case.

9. The relevant portion of the award reads as under:-

“26. A collective reading of all these documents and the depositions of witnesses go to show that sequences were in the following manner:

29.06.2005 Sardara Ram-respondent No.1 got quotation/ Performa Invoice (Mark-A) regarding one brand new Farmtrac tractor bearing Chasis No. T 2023996), engine No. E-2024108 from M/s SD Trading Corporation (seller). The possession of said tractor was also given to him by the seller.

01.07.2005 Sardara Ram returned said tractor back to the seller and obtained one another quotation/performa Invoice (Exh. R2/X) regarding another brand new Farm track tractor bearing chasis No. T2038512 and engine No.E-2039504 from said seller, i.e. M/s SD Trading Corporation. The possession of said second tractor was also obtained by him.

19.07.2005 Sardara Ram again approached seller along with his brothers, namely, Ram Kumar, Ram Singh & Labh Singh and a new quotation (Exh. RB) was obtained by them in their joint name from said seller, i.e. M/s SD Trading Corporation.

27.07.2005 Cash memo (Exh.R2/Y) was issued in favour of Sardara Ram and his brothers by M/s SD Trading Corporation for the sale of said Farmtrac tractor bearing chasis no. T 2038512 and engine No.E



2039504 and it was also noted therein that said tractor was financed by Oriental Bank of Commerce.

Oriental Insurance Company – respondent No.3 issued a provisional cover note (Exh. R3) in favour of Sardara Ram and his brothers regarding said tractor without entering chasis number and engine number in said cover note. However, name of OBC, Naraingarh (the abbreviated name of Oriental Bank of Commerce, Naraingarh) was duly entered.

23.07.2005 Insurance Company issued Kissan Package Policy (Exh.R1/D) in favour of Sardara Ram and his brothers for said Farmtrac tractor. In said policy also no engine number and chasis number were recorded. Oriental Bank of Commerce prepared loan disbursement memo (Exh. RA) regarding said tractor and duly pasted the paper slip containing engine number and chasis number on said Memo.

08.11.2005 M/s SD Trading Corporation sold afresh to one Mahi Pal tractor having chasis No. T 2023966 & engine No. T 2024108 which was previously purchased by Sardara. Ram on 29.06.2005 and was returned back on 01.07.2005.

14.02.2006 Tractor in possession of respondents No.1 to 2B met with an accident regarding which FIR. No.20 was registered at PS Naraingarh and tractor was taken in possession by police from the spot.

04.07.2006 Insurance Company-respondent No. 3 printed out from its computer their copy of Kissan Package Policy (Exh. R4) of the same tractor, but showing its engine number 2024108 and chasis No. 2023966 whereas previous policy (Exh. R1/D) as issued on 28.7.2005 and duly handed over to insured/ respondents No.1, 2, 2-A & 2-B was not containing any engine number or chasis number.

It seems that Insurance Company has not entered the chasis number and engine number of said tractor in time in its records whereas same was duly recorded on 28.7.2005 by Oriental Bank of Commerce on the very next day of the issuance of the sale letter of said tractor. Instead of approaching the office of Oriental Bank of Commerce, Naraingarh, it seems that they had approached the office of M/s SD Trading Corporation and from there inadvertently recorded the engine number and chasis number of the previous tractor of Sardara Ram for which he has



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obtained a quotation/ invoice on 29.6.2005 whereas the remarks of received back was duly recorded on said invoice after which he had obtained present tractor having different engine and chasis number from the same seller and it was the second tractor which was actually insured. It also seems that the pen entries over carbon copy (Exh.R5) of provisional cover note, whereby chasis number and engine number of said previous tractor were inserted, were entered only after 04.07.2006 when Exh.R4 was prepared.

27. From the above discussion it is clear that tractor in question was duly insured with respondent No.3-The Oriental Insurance Company Ltd. it has already been held in the preceding paras that accident was caused due to rash and negligent driving of said tractor by respondent No.1 and that it was jointly owned by respondents No.1, 2, 2A & 2B. Hence, all the respondents are liable jointly & severally to pay the compensation. This issue is accordingly decided in favour of the claimants Kamla Devi & Ramesh and against the respondents.”

10. A perusal of the award reveals that the contention raised by the appellant-Insurance Company that it has been erroneously held liable to pay compensation by the learned Tribunal on the premise that the offending tractor-trolley was not insured with it lacks merit. The Tribunal, after a thorough examination of the material evidence on record, including documentary proof and witness's depositions, rightly concluded that the vehicle involved in the accident was duly insured with the appellant.

11. The learned Tribunal meticulously considered the sequence of transactions, including the sale, return, and subsequent purchase of the tractors, as well as the issuance of insurance policies and provisional cover notes. The evidence establishes that the insurance policy in question, though initially not containing the chassis and engine numbers, was in fact issued for the second tractor, which was the one involved in the accident. The discrepancies in the policy records appear to have arisen due to inadvertent



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errors in entering the engine and chassis numbers at the time of record-keeping by the Insurance Company. However, such clerical or procedural lapses cannot be invoked as a ground to evade liability under a duly executed insurance contract, particularly when the substantive evidence affirms the insurability of the vehicle in question.

12. Moreover, the Tribunal has correctly held that the accident occurred due to the rash and negligent driving of the insured tractor, which was jointly owned by respondents No. 1, 2, 2A, and 2B. As joint owners, they are jointly and severally liable to compensate the claimants. Given that the vehicle was under a valid insurance cover issued by the appellant, the insurer is legally bound to indemnify the claimants in accordance with the terms and conditions of the policy.

13. The award rendered by the learned Tribunal is founded on well-reasoned legal principles, supported by a cogent appreciation of evidence, and does not warrant interference by this Court. Accordingly, the present appeal, being devoid of merit, stands dismissed.

14. Appellant-Insurance Company is hereby directed to disburse the current scheduled fees to Mr. Ashwani Talwar, Advocate, within a period of ten days from the date of receipt of the copy of this judgment.

15. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

30.01.2025

Virrendra

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No