



121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-272-2017 (O&M)
XOBJC-59-CII-2017
Date of decision : 05.08.2025

UNITED INDIA INSURANCE CO LTDAppellant

Versus

SEEMA & ORS ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ram Avtar, Advocate for the appellant.

Mr. R.P. Dangi, Advocate
for the respondents No.1 to 4/cross-objectors.

PANKAJ JAIN, J. (ORAL)

Insurance Company is in appeal aggrieved of the Award passed by MACT, Rohtak, dated 08.09.2016.

2. Claimants have filed cross-objections seeking enhancement of compensation.

3. Claim petition was filed by the legal heirs of Krishan, who died in a motor-vehicular accident, dated 09.09.2015, at the age of 35 years.

4. MACT, Rohtak held them entitled to a sum of Rs.9,35,000/- along with interest @ 9% per annum from the date of institution of the petition till actual realization of the amount.

4. Counsel for the insurance company claims that the vehicle i.e. Three Wheeler was being plied without valid permit. In the absence of there

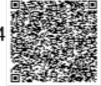


being a valid permit, there is violation of contract of insurance and thus insurer cannot be saddled with the liability to indemnify the insured. He submits that the route permit of the autorickshaw was valid up till 18.08.2015. Meaning thereby that on the date of the accident there was no valid permit to ply the vehicle. He thus submits that the findings recorded by Tribunal on Issue No.3, cannot be sustained.

5. I have heard counsel for the appellant and have carefully gone through records of the case.

6. The issue w.r.t. plying of autorickshaw without permit and the availability of defence in the absence of permit with the insurer, came up for consideration before the Division Bench of this Court in the case of **‘National Insurance Company Limited vs. Kamlesh Kaur and others’**, **2006 (3) PLR 83**. This Court observed as under:

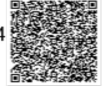
“5. The argument that a route permit was required within the State of Haryana, raised by the learned counsel for the Insurance Company-appellant is devoid of merit because it was not the pleaded case of the Insurance Company-appellant before the MACT. No witness or document has been produced on record by the Insurance Company-appellant to show that no 'permit' was obtained by the owner of the vehicle or any 'route permit' for a goods vehicle within the State of Haryana was required. The Insurance Company-appellant even failed to cross-examine the Criminal Ahlmad, who had appeared as PW-2 alongwith the Registration Certificate of the offending vehicle to show as to whether the vehicle was registered as a 'goods vehicle' or the vehicle was granted any permit. It may be true that a permit for goods carrier may be required under Section 66 of the Act but there



is no requirement of acquiring a route permit for such a vehicle within the State as projected by the Insurance Company-appellant. In any case it has to be proved on record that the vehicle was not granted any permit. The defences of the Insurance Company appellant are confined to those which have been referred to in sub-section (2) of Section 149 of the Act, particularly with regard to liability towards third party. In that regard reliance may be placed on a judgment of the Hon'ble Supreme Court in the case of *National Insurance Company v. Swaran Singh, 2004(2) RCR (Civil) 114 : (2004) 3 SCC 297*. It has been laid down by the Hon'ble Supreme Court that breach of condition of a policy committed by the insured, like non-issuance of licence, has to be proved by the Insurance Company if it wishes to avoid liability. In the summary of defences in para 110 of the judgment, their Lordships' have observed in sub-paras (iii) and (iv) as under :-

"(iii) The breach of policy condition e.g. disqualification of the driver or invalid driving licence of the driver, as contained in sub-section (2)(a)(ii) of Section 149, has to be proved to have been committed by the insured for avoiding liability by the insurer. Mere absence, fake or invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. To avoid its liability towards the insured, the insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by a duly licensed driver or one who was not disqualified to drive at the relevant time.

(iv) Insurance companies, however, with a view to avoid their liability must not only establish the available defence(s) raised in the said proceedings but must also establish "breach" on the part of the owner of the vehicle; the burden of proof wherefor would be on them."



7. In view thereof, this Court finds that the issue is squarely covered against the insurance company. The appeal preferred is accordingly, dismissed.

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The claimants are seeking enhancement of compensation.

2. Keeping in view the ratio of law laid down by Supreme Court in the case of **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Company Limited vs. Pranay Sethi and others, (2017) 16 SCC 680 and Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others – Civil Appeal No.9581 of 2018, decided on 18.09.2018**, the compensation awarded by the Tribunal needs to be reworked and reassessed. The claimants are held entitled for compensation as tabulated here under:

Heads	Compensation
Income	Monthly : Rs.8,100/- Yearly : Rs.97,200/-
Deduction 1/3rd	Rs.64,800/-
Future prospects	40% Rs.90,720/-
Multiplier 15	Rs.13,60,800/-
Loss of Estate	Rs.18,000/-
Funeral Expenses	Rs.18,000/-
Loss of Consortium	Respondent No.1 = Rs.48,400/- Respondent No.2 = Rs.48,400/- Respondent No.3 = Rs.48,400/- Respondent No.4 = 'Nil'
Loss of Love & Affection	Nil



Total Compensation	Rs.15,42,000/-
Interest	@ 7.5% per annum
Legal Expenses	Rs.10,000/-

3. With the aforesaid modification in the impugned award, cross-objections are disposed off.

4. Pending application(s), if any, shall also stand disposed off.

August 05, 2025

Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No