
Oriental insurance Company Vs Suraj Parkash And Others

Miscellaneous Appeal No. 231 Of 2011

Court: Jammu And Kashmir High Court

Date of Decision: June 17, 2020

Acts Referred:

Motor Vehicles Act, 1988 " Section 140

Hon'ble Judges: Sanjeev Kumar, J

Bench: Single Bench

Advocate: R.K.Jain

Final Decision: Dismissed

Judgement

Sanjeev Kumar, J

1. This appeal by the Oriental Insurance Company (hereinafter referred to as the "insurer") is directed against the interim award dated

04.02.2011 passed under Section 140 of Motor Vehicle Act in File No. 73/claim titled "Suraj Parkash vs Imran Khan and others.

2. The impugned interim award has been assailed by the insurer primarily on the ground that the Tribunal could not have directed the insurer to satisfy

the interim award for the insurer had no liability to indemnify the insured because of the fact that the offending vehicle, at the time of accident, was

being driven by its driver in contravention of terms and conditions of the insurance policy. It is also urged that the driver of the offending vehicle was

also not possessing a proper and effective driving licence.

3. Mr. Jain, learned counsel appearing for the appellant-insurer, thus, urges that since, in the given facts and circumstances and for the aforesaid

violation of terms and conditions of the insurance policy, the insurer was not liable to indemnify the owner, as such, the Tribunal committed an error by

directing it to pay the interim compensation of Rs.25000/- to respondent No.1-claimant.

4. Having heard learned counsel for the appellant and perused the record, I am of the view that the appeal against the interim award on the grounds

urged is not maintainable.

5. Whether or not the driver of the offending vehicle was possessing a valid and proper driving licence; whether or not the offending vehicle was being

driven by its driver in contravention of terms and conditions of the insurance policy; are the matters of evidence to be proved during the course of trial

of the main claim petition. The insurer cannot avoid its liability to satisfy the interim award on such factual pleas for the aforesaid reasons.

6. Finding no merit in this appeal, the same is, accordingly, dismissed. Needless to say that the impugned interim award passed shall remain and shall

always be subject to the final outcome of the main claim petition.