**The death of the person, in whose favour a certificate of insurance had been issued, is no bar to the proceedings and therefore, proceedings do not abate: High Court of J&K and Ladakh**

the Section 155 of the Motor Vehicle Act which clearly states that the death of the person, in whose favour a certificate of insurance had been issued, after the happening of the accident which gave rise to filing of claim petition, is no bar to the proceedings and therefore, proceedings do not abate as held by the **High Court of J&K and Ladakh** through a learned bench of **Justice Tashi Rabstan** in the case of **Bajaj Allianz General Insurance Co. Ltd Vs Naresh Kumar and Another [MA No.18/2016 IA Nos.1/2016 & 1/2017].**

The facts giving rise to filing of present appeal are that an accident took place on Jammu Pathankote National Highway at Ghagwal wherein the claimant respondent No.1 herein, got severely injured. At the relevant point of time, the claimant was working as Cleaner in the offending vehicle which was driven rashly and negligently by its driver and on account of disablement caused to the claimant; he filed a claim petition before the Tribunal. Considering the evidence put-forth before the Tribunal and record of the file, the Tribunal came to the conclusion and passed an award of an amount of Rs.27,68,748/- along with pendentelite and future interest @7.5 % per annum throughout till realization except on the head of loss of future income and future income includes the future expenditure.

The main ground of challenge thrown by the Insurance Company was that there is no privity of contract between the insurance company and owner of the vehicle who expired during the proceeding before the Tribunal. Learned counsel for the appellant vehemently argued that the insurance company is under no obligation to indemnify the owner in the absence of the insurance policy. In this regard, the learned counsel has produced number of judgments, some of them **are Oriental Insurance Co. Ltd. Vs. Misra and others, 2005(3)JKJ 50, Oriental Insurance Co. Ltd. Vs. Rajni Devi, 2016(3) JKJ 353** and **National Insurance Co. Ltd. Vs. Ramjee Pandey and another, 2009 ACJ 2301**.

Per contra, **Mr. Vipan Gandotra**, learned counsel appearing for the claimant submits that the death of the owner during the proceeding is not a bar and as such, the claim petition does not abate. In this regard, he has placed reliance on a judgment in **Ranbir Singh Vs. National Insurance Co. and another**.

The Hon’ble High Court after hearing the parties and a perusal of the facts on record concluded that *“As far as the question of the abatement of the claim proceedings is concerned, the position is very clear owing to the Section 155 of the Motor Vehicle Act which clearly states that the death of the person, in whose favour a certificate of insurance had been issued, after the happening of the accident which gave rise to filing of claim petition, is no bar to the proceedings and therefore, proceedings do not abate.”*

**Judgment Reviewed by – Aryan Bajaj**