

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 980 of 2000 (O&M)
Date of decision 29.04. 2015.

New India Assurance Company Limited, Chandigarh through
its Assistant Manager (Legal) S.K.Gupta

..... Appellant.

versus

Smt. Joginder Kaur and others

..... Respondents.

CORAM :- HON'BLE MR.JUSTICE K.C.PURI.

1. Whether Reporters of Local Newspapers may be allowed to
see the judgment? yes
2. To be referred to the Reporters or not? yes
3. Whether the judgment should be reported in the Digest? yes

Present : Shri Ashwani Talwar, Advocate for the appellant.
Shri Vikram Advocate for
Shri K.S.Chaudhary, Advocate for respondents No.1 to 3.
Shri Sanjay Jain, Advocate for respondent No.6 and 7.

K.C.PURI, J.

This is an appeal directed by Insurance Company against the
Award dated 01.12.1999 passed by Mr. M.M.Sharma, Motor Accident
Claims Tribunal, Kurukshetra vide which claim petition was partly accepted
and a sum of Rs.1,93,000/- was granted to the claimants along with interest
@ 12% per annum from the date of filing of claim petition till realization.

2. Briefly stated legal heirs of Gurmej Singh filed petition under
Section 166 and 140 of the Motor Vehicles Act, 1988 (in short – the Act)

claiming compensation to the tune of Rs.10,00,000/- on account of death of Gurmej Singh in a motor vehicular accident. It is pleaded that Gurmej Singh deceased was going on the markanda Bandh while he was on his way from dera of Chhabag Singh situated at village Ram Nagar to his village Rawa. After he had hardly covered a distance of about 200 yards from the dera of Chhabag Singh, tractor and traction No.HNQ-6443 which was being driven by respondent No.1 Balbir Singh rashly and negligently reached there from the side of G.T.Road. In order to save himself the deceased left the Bandh portion and came on the slope of the Bandh towards his left side. Respondent No.1 Balbir Singh lost control over the tractor and the same turned turtle. As a result of which Gurmej Singh buried under the tractor and received multiple injuries and he died at the spot.

3. Respondents No.1 and 2 filed joint written statement whereas respondent No.3 filed separate written statement. Respondent Nos.1 and 2 denied the allegations made in the claim petition. It is pleaded by them that Gurmej Singh was on the wheel of the tractor and respondent No.1 was sitting on the said tractor. It was denied that at the time of accident, respondent No.1 was on the wheel of the tractor in question. Gurmej Singh failed to make judgment regarding the width of the Bandh of the markanda bridge and the tractor turned turtle and Gurmej Singh was buried under the same. It was pleaded by respondent No.3 that the tractor was being driven by a person not holding valid driving licence at the time of accident.

4. From the pleadings of the parties, following issues and additional issue were framed :-

- (1) Whether the accident resulting into death of Gurmej Singh took place due to rash and negligent driving of tractor bearing registration No.HNQ-6443 at the hands of respondent driver Balbir singh ?OPA
- (2) If issue No.1 is proved, to what amount of compensation are the claimants-applicants entitled and from whom? OPP
- (2A) Whether respondent No.1 was not holding valid and effective driving licence at the time of accident, if so, to what effect ?OPR
- (3) Relief.

5. The Tribunal has treated the claim petition under Section 163-A of the Act and returned finding against insurance company and held responsible all the respondents No.1 to 3 jointly and severally for payment of Rs.1,93,000/- along with interest @ 12% per annum from the date of petition till realization.

6. Feeling dissatisfied with the aforesaid award, the Insurance Company has directed the present appeal.

7. The only point raised during the course of arguments is that the claim petition was preferred under Section 166 of the Act by the claimants and no such relief under Section 163-A of the Act can be granted. However, counsel for the appellant is fair enough to concede that amount of compensation has been paid to the claimants. No case law has been produced to establish that no petition filed under Section 166 of the Act can be allowed to be amended under Section 163-A of the Act.

8. Consequently, the present appeal is without any merit and the same stands dismissed.

9. A copy of this judgment be sent to the Tribunal for strict compliance.

(K.C.PURI)
JUDGE

April 29, 2015
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