

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.1041 of 2013 (O & M)

Date of Decision: *September 23, 2015*

Vicky & another

..... APPELLANTS

VERSUS

United India Insurance Company Limited & others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

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

. . .

PRESENT: - Dr. Anand Kumar Bishnoi, Advocate, for the appellants.

Mr. Pardeep Goyal, Advocate, for respondent
No.1 – Insurance Company.

Mr. Sandeep Goyat, Advocate, for respondent
Nos.2 to 4.

. . .

Jaspal Singh, J

1. Challenge in this petition is to Award dated

December 13, 2012 passed by the Motor Accident Claims

Tribunal, Hisar (for short, ‘Tribunal’) vide which claim petition

filed by respondent Nos.2 to 4 was allowed and appellants as well as respondent No.1 – United India Insurance Company Limited, Hisar (for short, ‘Insurance Company’) were held jointly and severally liable to pay the amount of compensation.

2. While assailing the impugned award, learned counsel for the appellants has submitted that the same is not in consonance with the evidence available on record and settled canons of law. The Tribunal, without any evidence, observed that the offending vehicle (Indica Car bearing registration No.HR-20P/2422) was being used as a taxi. Even the Insurance Company has failed to bring on record any evidence which could show that offending vehicle was being used as Taxi. Moreover, compensation (₹ 8,51,200/-) awarded by the Tribunal is on higher side. Moreover, impugned award passed by the Tribunal is based on conjectures and surmises and is not sustainable. The same is liable to be set aside by way of acceptance of the instant appeal.

3. Learned counsel for the respondents have supported the award passed by learned Tribunal by submitting that since compensation has been awarded by learned Tribunal while keeping in view the facts & circumstances of the case, evidence available on file and latest proposition of law, no

interference of this Court is justified. Appeal deserves to be dismissed.

4. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the parties and have perused the record.

5. The sole question which requires determination in this appeal is whether liability fastened upon the appellants is illegal and liable to be set aside? Answer to this question is in the negative.

6. As per the facts of the case, on February 2, 2012, Krishan Kumar (deceased) alongwith his wife was coming from Meerut towards Satrod Kalan through offending car, being driven by respondent No.1 in a rash and negligent manner. When they reached near TCP Gate No.3, Hisar Cantt., suddenly a bull came on the road in front of the offending vehicle. Respondent No.1 directly hit the offending vehicle against the bull. As a result of accident, Krishan Kumar sustained multiple injuries. He was taken to N.C. Jindal Hospital, Hisar but he was declared as dead by the doctor.

7. Shashi wife of Krishan Kumar stepped into witness box as PW-1. She herself was one of the victims as well as an eye witness. She categorically deposed that accident

occurred due to rash and negligent driving of offending vehicle by respondent No.1. Even the Post Mortem Report (Ex.P1) and police challan (Ex.P3) also depict that Krishan Kumar died in the vehicular accident. Moreover, a perusal of evidence on record is sufficient to satisfy this Court that offending vehicle was being plied as a Taxi on the date of accident, which clearly constitutes the violation of an essential conditions of the insurance policy.

8. Since, appellant No.1 was driving the offending vehicle rashly and negligently at the time of accident, in which, Krishan Kumar lost his life; appellant No.2 was the owner of the vehicle; and the fact that the offending vehicle was being plied as Taxi at the time of accident, Id. Tribunal has rightly fastened the liability to pay compensation upon them. Thus, in the given circumstances, no interference of this Court is justified in the impugned award as the appellants could not point out any infirmity or illegality in it.

9. In the light of what has been discussed above, instant appeal being devoid of merits, is hereby dismissed.

10. No order as to costs.

September 23, 2015

avin

(Jaspal Singh)
Judge