

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.1347 of 2015 (O&M)
Date of decision: 19th February, 2015

Suresh Kumar

... Appellant

Versus

Hawa Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

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

Present: Mr. Navmohit Singh, Advocate
for the appellant.

FATEH DEEP SINGH, J.

This is an appeal by the driver assailing the findings of the learned Motor Accident Claims Tribunal, Kaithal dated 06.08.2014 allowing the claim petition of the injured claimant Hawa Singh whereby a sum of ₹3,00,013 has been awarded along with interest @ 7.5% p.a.

Upon hearing Mr. Navmohit Singh, Advocate representing the appellant. The main grouse of the appellant is over the fixation of obligation of the appellant-driver and the owner to pay the amount of compensation jointly and severally whereas the insurer has been exonerated of the same.

It is the specific stand of the insurer taken in their pleadings and for which issue No.4 has been framed, if the vehicle in

question i.e. truck bearing registration No.HR-46B-4779 on the day of accident i.e. 24.02.2013 was being driven in violation of the terms and conditions of the insurance policy and in spite of the driver appellant as well as the owner being aware of this stand, they did not lead any evidence to rebut this contention of the insurance company.

What is evident in para No.37 of the impugned findings that the counsel for these respondents had made a statement before the Tribunal on 04.08.2014 that the route permit of the truck has not been provided and no efforts were made to place it on the record. Thus, by this stand of these respondents bars them from even seeking a relief for leading additional evidence in terms of Order XLI Rule 27 CPC as none of the three eventualities detailed therein are made out in favour of the applicant-appellant and thus, even the application for leading additional evidence i.e. CM No.3667-CII of 2015 is hopelessly without any merit.

The Tribunal has found that even the fitness certificate Ex.RD had expired on 01.02.2012 much before the date of accident and therefore, the conclusions drawn by the Tribunal that the vehicle was being driven in violation of the terms and conditions of the insurance policy cannot be found fault with.

Thus, in the light of these discussions, the instant appeal being without any merit stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

February 19, 2015
rps