

1.	FAO No.2697 of 2015 Date of Decision: April 23, 2015	
United India Insurance Co. Ltd.		.. Appellant
	vs.	
Sushil Devi and others		.. Respondents
2.	FAO No.2705 of 2015 Date of Decision: April 23, 2015	
United India Insurance Co. Ltd.		.. Appellant
	vs.	
Sunita Devi and others		.. Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Harsh Aggarwal, Advocate for the appellant.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.

This order of mine shall dispose of FAO Nos.2697 and 2705 of 2015, arising out of the same Award.

Insurance Company has filed the aforesaid appeals against the Award dated 29.01.2015 passed by the Motor Accident Claims Tribunal, Kaithal (in short 'the Tribunal'). The Tribunal vide MACT case Nos. 95 and 96 of 2014 awarded compensation of ₹9,78,200/- (rupees nine lac seventy eight thousand two hundred only) and ₹10,88,600/-(rupees ten lac eighty eight thousand six

hundred only) on account of death of Surender and Naresh Kumar respectively.

The contention raised by the learned counsel for the Insurance Company is two folds:

1. Negligence on the part of the driver of TATA-407 is not proved.

2. 50% future prospects were wrongly added.

It has been argued that in this case, there were two eye witnesses of the occurrence.

One of the witnesses, namely, Balinder, who had lodged the FIR was examined as PW3. He is brother of deceased Surender. In his cross-examination, he stated that he was sitting inside the hotel. He came out after hearing the bang of the accident and saw the offending vehicle from back. It has been also argued that the statement of Balinder regarding the negligence on the part of the driver of TATA-407 (registration No.HR-61-8680) cannot be relied upon.

Sohan Lal @ Sonu was examined as PW4. He stated has he was following the motorcycle of the deceased on another motorcycle. He has clearly stated that he saw the accident. He even chased the offending vehicle and noted down the number and also saw the driver of the offending vehicle. Therefore, his version that he saw the offending vehicle cannot be disbelieved.

No evidence was led by the Insurance Company before the Tribunal.

After the investigation, the police found that the driver of TATA-407 was negligent. Therefore, he was challaned and the offending vehicle was taken into possession. There is nothing on file to show that he was not negligent and has been falsely implicated.

It being so, the negligence on the part of the driver of the offending vehicle TATA-407 is proved.

Regarding the future prospects, it has been argued that the matter for grant of future prospects is pending for adjudication before the larger Bench of the Hon'ble Apex Court. Therefore, the future prospects were wrongly awarded.

I am of the view that the authority of “***Rajesh and others vs. Rajbir Singh***” 2013 (3) RCR (Civil) 170, regarding grant of future prospects has not been set aside so far. Therefore, future prospects cannot be disallowed, merely on the ground that the matter has been referred to the larger Bench.

In view of the aforesaid, I do not find any merit in the aforesaid appeals and the same are accordingly dismissed.

Statutory amount of ₹25,000/- deposited with the present appellant be remitted to the Tribunal for disbursement to the claimants.

April 23, 2015
sarita

(KULDIP SINGH)
JUDGE