

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

**FAO No.2701 of 2015 (O&M)
Date of Decision: April 23, 2015**

Reliance General Insurance Company Ltd. Appellant

vs.

Smt. Sheela and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Nitin Mittal, Advocate for
Mr. Paras Money Goyal, 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.(Oral)

CM-8265-CII-2015

There is 34 days' delay in filing the present appeal.

For the reasons mentioned in the application supported by an affidavit, delay of 34 days in filing the present appeal is condoned subject to all just exceptions.

Application stands disposed of.

FAO-2701-2015

This appeal has been filed by the Insurance Company against the Award dated 13.11.2014 passed by the Motor Accident Claims Tribunal, Sonipat (in short 'the Tribunal')

In this case, Wazir Singh, who was working as a Tyreman in Sub Depot of Haryana Roadways, Gohana, died in a motor

vehicular accident, which occurred on 18.12.2012 near Neta Ji Subhash Chander Sports Complex, Sonipat. On the basis of the statement of Parveen son of the deceased, FIR No.380, dated 19.12.2012, under Sections 279 and 304-A IPC was registered at Police Station Baroda.

The Tribunal after recording the evidence of both the parties held that the accident took place with the offending Sawraj Mazda Canter bearing registration No.HR-69-A7609, being driven by Ramesh-respondent and accordingly awarded compensation to the tune of ₹10,96,856/- (rupees ten lac ninety six thousand eight hundred fifty six only) with interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

I have heard learned counsel for the appellant and have also carefully gone through the evidence produced by learned counsel for the Insurance Company at the time of the arguments.

The only contention of learned counsel for the Insurance Company is that the involvement of offending Sawraj Mazda in the accident is not proved.

It has been argued that Parveen is not the eye witness of the occurrence. The examination of the evidence shows that one Ajmer Singh was examined as PW4, who claimed that he is eye witness of the occurrence. He stated that the offending Sawraj Mazda struck against the deceased, who was going on foot. The

cross-examination of the said witness reveals that he was training the students in Sports Centre and used to visit there daily. The accident took place near the said Sports Centre. Therefore, Ajmer Singh is the natural witness.

Learned counsel for the Insurance Company has argued that Ajmer Singh, PW4 in his cross-examination stated that it was a semi-foggy night and he had not disclosed the registration number of the offending vehicle to the police and the driver of the said vehicle had not fled away from the spot and remained present there till the arrival of the police.

It comes out the Devender Kumar, Ahlmad to the Court of Judicial Magistrate Ist Class, Gohana, who appeared as PW3, stated that after the investigation, Ramesh-respondent was challaned by the police and in the aforesaid FIR, he is facing trial. The said witness also proved the challan and copy of the report under Section 173 Cr.P.C.

The mere fact that Parveen (PW2), who lodged the FIR against an unknown vehicle and an unknown driver, does not mean that the police is debarred from tracing the real culprit. The police carried out the investigation and found out the witnesses and challaned the driver. There is nothing on file to show that Ramesh-respondent ever complained to anybody that he has been falsely implicated in the case.

Therefore, it cannot be said that the offending vehicle was not involved in the accident in question. Consequently, I do not find any merit in the present appeal. No other point has been raised.

The present appeal is accordingly dismissed.

The statutory amount of Rs.25,000/- deposited by the present appellant-the Insurance Company along with interest be remitted to the Tribunal for disbursement to the claimants.

April 23, 2015
sarita

(KULDIP SINGH)
JUDGE