

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5024 of 2015 (O&M)
Date of decision 04.08. 2015.

Reliance General Insurance Company Limited

..... Appellant.

versus

Renu and others .

..... Respondents.

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

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?

Present : Mr. Subhash Goyal, Advocate for the appellant.

K.C.PURI, J.

Challenge in this appeal is the Award dated 13.04.2015 passed by Sardar Harjeet Singh, Motor Accident Claims Tribunal, Ludhiana vide which claim petition preferred by the claimant was allowed.

2. The facts as gathered from the are that on 18.06.2013, Prince Kumar deceased along with his real brother Ravi Kumar and father Parshottam Lal was going to his Village Aimma Jattan, after closing his shop situated at Adda Kot Phatuhi. The deceased was ahead of his brother and father on his motorcycle make Honda bearing registration No. PB-07-S-

3273. At about 9.45 PM, when they reached at village Pandori Ladha Singh near liquor vend, a vehicle with head lights at high beam came from the opposite side then the motorcycle of the deceased Prince Kumar struck against the back of offending vehicle from back side which was wrongly parked on the road without blowing the parking lights. Due to the impact, the deceased sustained multiple and grievous injuries on his forehead as well as on left thigh. FIR No. 63 dated 19.06.2013 under sections 304-A/427 of the Indian Penal Code was registered in this regard.

3. On put to notice, respondents No.1 and 2 appeared and filed written statement denying the factum of accident. The other averments of the claim petition were denied.

4. Respondent No.3 filed separate written statement taking preliminary objections regarding maintainability of claim petition; bad for mis-joinder and non-joinder of necessary parties. The other averments were denied.

5. None appeared on behalf of respondents No.4 and 5 before the Tribunal and as such, they were proceeded ex parte.

From the pleadings of parties, following issues were framed :-

- 1) Whether deceased Prince Kumar died in motor vehicular accident caused by respondent No.1 while driving Truck bearing No. PB-020AY-7144 on 18.06.2013 in rashly and negligently ? OPP
- 2) Whether the claimants are legal representatives of deceased entitled for compensation, if so, to what extent ? OPP
- 3) Whether the claim petition is maintainable ? OPP

- 4) Whether the claim petition is bad for mis-joinder and non-joinder of necessary party ? OPR
- 5) Whether the respondent No.1 was not holding a valid and effective driving license at the time of alleged accident ? OPR 3
- 6) Whether the vehicle in question was driven without any fitness certificate or permit ? OPR (3)
- 7) Relief.

6. In order to prove their case, the claimant herself stepped into witness box as CW1, Ravi Kumar as CW2 and closed the evidence.

7. On the other hand, respondents did not examine even a single witness and their evidence was closed by order.

8. The Tribunal after hearing the learned counsel for the parties, awarded a sum of Rs.7,00,000/- to the claimants and Rs.50,000/- as consortium to claimant No.1 vide award dated 13.04.2015.

9. Feeling dissatisfied with the award dated 13.04.2015, Insurance Company has directed the present appeal.

10. I have heard learned counsel for the appellant and have gone through the records of the case file with his able assistance.

11. Learned counsel for the appellant has submitted that at the most it is a case of contributory negligence. The deceased was driving the vehicle and struck against the back side of the truck.

12. I have considered the said submission but do not find any force in that submission.

13. The accident has taken place at 9.45p.m. The driver of truck is bound to park the vehicle in such a manner that vehicle coming from

other side could see the vehicle. No evidence has been produced by the insurance company to prove that it is a case of contributory negligence.

14. No other point has been raised or urged before me.

15. Consequently the appeal preferred by the insurance company is without any merit and the same stands dismissed.

15. A copy of this judgment be sent to the trial Court for strict compliance.

**(K.C.PURI)
JUDGE**

August 04, 2015

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