

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.8040 of 2014 (O&M)
Date of Decision: May 06, 2015

Reliance General Insurance Company Ltd.

...Appellant

Versus

Smt.Mem Wati and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Suman Jain, Advocate
for the appellant.

INDERJIT SINGH, J.

CM No.21639-CII of 2014

For the reasons mentioned in the application, the same is allowed. The delay of 40 days in re-filing the appeal is condoned.

FAO No.8040 of 2014

Appellant Reliance General Insurance Company Limited has filed this appeal against Smt.Mem Wati and other respondents, challenging the impugned Award dated 15.03.2014 passed by learned Motor Accident Claims Tribunal, Palwal (hereinafter referred to as 'Tribunal'), vide which ₹30,75,516/- along with interest at the rate of 7% per annum has been awarded to the claimants from the date of filing of petition till realization of the awarded amount.

The brief facts of the case are that Smt.Mem Wati and other respondents-claimants filed claim petition against Bhagwat

(driver), Deepak Chaudhary (owner) and Reliance General Insurance (Insurer) of offending Maruti Zen car bearing registration No.HR-30D-4069, under Section 166/140 of the Motor Vehicles Act, 1988. It is stated in the claim petition that on 08.08.2010, Ram Veer Singh was coming from his village to NSG Camp Manesar on his motorcycle bearing registration No.RJ-05SP-9648 at a moderate speed. At about 4.30, when he reached in front of Master Ajjamat Memorial School, Hodal Nuh road, the offending vehicle bearing registration No.HR-30D-4069 driven by respondent-driver at a high speed and in a rash and negligent manner, came from the back side and hit his motorcycle from the back side. He fell down on the road and received multiple grievous injuries. Due to the serious injuries, Ram Veer Singh expired on 12.08.2010. Post-mortem examination was got conducted on the dead body. It is further stated that the accident was witnessed by Keshav Dev, who was following the deceased at that time. FIR No.277 dated 12.08.2010 under Section 279, 337 and 304-A was registered against respondent-driver. Deceased Ram Veer Singh was 26 years of age and working as Commando in 11 SRG NSG Manesar, Gurgaon in Central Reserve Police Force and drawing ₹25,000/- per month. Claimants claimed compensation of ₹75 lacs.

On the other hand, respondents-driver and owner, in the written statement, denied the accident with the vehicle in question due to rash and negligent driving of respondent-driver. It is further stated that FIR is totally false and has been got lodged in order to extract huge money from the respondents. It is also stated that vehicle is

insured with Reliance General Insurance Company Ltd. Insurance Company filed separate written statement (in claim petition) and took same plea as taken by respondents driver and owner.

The claimants examined PW-1 Memwati (claimant), PW-2 Keshav Dev, eye witness, PW-3 Joginder Singh, Ahlmad.

On the other hand, respondents (in claim petition) examined RW-1 Mahesh Bist, Investigator, RW-2 Naresh Kumar, Manager (Legal), RW-3 Pankaj, Medical Record Technician and RW-4 Vinod Kumar and thereafter, closed the evidence.

At the time of arguments, learned counsel for the appellant argued only on one point that the vehicle has been falsely planted in this case and rash and negligent driving by respondent-driver has not been proved by leading cogent evidence. He further argued that there is delay of four days in recording the FIR and presence of eye witness Keshav Dev on the spot, is doubtful.

After hearing learned counsel for the appellant and after going through the record, first of all, I find that delay of four days in registering the FIR is of no consequence. Only on this ground, it cannot be held that the claimants have not proved the rash and negligent driving of respondent-driver. Secondly, neither the driver nor the owner has come to the witness box to rebut the statement of eye witness Keshav Dev, who also got recorded the FIR. The mere fact that driver was *munshi* of respondent-owner of the car and the fact that respondent-owner is an Advocate, itself will not show that false vehicle has been planted in this case. The statement of RW-1

Mahesh Bist, Investigator of Insurance Company, is of no value. He has not seen the accident. He has simply given the observation that there are two speed breakers etc. and deceased might have fell due to these speed breakers. The report of this Investigator of the Insurance Company is of no value, especially, in view of the fact that after the investigation in the FIR, challan was presented against respondent-driver and the trial was going on at that time. The mere fact that the vehicle number and driver's name have not been mentioned in the FIR, will also not prove version of the appellant Insurance Company that false vehicle has been planted. There is nothing in the evidence to show as to why respondents-driver and owner would collude with the claimants.

The findings given by learned Tribunal are correct and after appreciating the evidence in right perspective. There is no cogent evidence on record to show that vehicle has been falsely planted in this case. The statement of the eye witness remained un-rebutted on the file.

In view of the above discussion, I find that findings in the Award dated 15.03.2014 given by the Tribunal are correct, as per evidence and law and do not require any interference from this Court.

Therefore, finding no merit in the present appeal, the same is dismissed.

May 06, 2015
Vgulati

(INDERJIT SINGH)
JUDGE