

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

-:-

Decided on : January 19, 2015

1. F.A.O No. 9528 of 2014 (O&M)

Reliance General Insurance Co. Ltd.

... Appellant.

Versus

Murti Devi & Ors.

... Respondents

2. F.A.O No. 9529 of 2014 (O&M)

Reliance General Insurance Co. Ltd.

... Appellant.

Versus

Bimla Devi & Ors.

... Respondents

3. F.A.O No. 9633 of 2014 (O&M)

Reliance General Insurance Co. Ltd.

... Appellant.

Versus

Mahinder Singh & Ors.

... Respondents

4 F.A.O No. 9670 of 2014 (O&M)

Reliance General Insurance Co. Ltd.

... Appellant.

Versus

Reena Devi & Ors.

... Respondents

5. F.A.O No. 9671 of 2014 (O&M)

Reliance General Insurance Co. Ltd.

... Appellant.

Versus

Kanta Devi & Ors.

... Respondents

2. F.A.O No. 10624 of 2014 (O&M)

Reliance General Insurance Co. Ltd.

... Appellant.

Versus

Reena Devi & Ors.

... Respondents

CORAM : HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN

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

Mahavir S. Chauhan, J. (Oral)

This order, being passed in FAO No. 9528 of 2014, “Reliance General Insurance Company Ltd. Vs. Murti Devi”, shall dispose of, in addition to this appeal, other appeals i.e., FAO Nos. 9529, 9633, 9670, 9671 and 10624 of 2014, as all these appeals have arisen from a common award dated 15.04.2014 passed by the learned Motor Accidents Claims Tribunal, Kaithal ('the Tribunal' – for short).

Although all the afore-mentioned appeals are barred by time, but I have heard learned counsel for the appellant(s) on merits.

It is argued by learned counsel for the appellant(s) that driver of the Ambulance bearing registration No. HR-45A-5855 was equally responsible for the unfortunate occurrence as the ambulance hit the tanker/container bearing registration No. HR-38K-458 on the rear, which indicates that driver of the ambulance was not maintaining sufficient distance from the tail-end of the truck/container, but the learned Tribunal has failed to take notice of this fact which involved contributory negligence of drivers of both the vehicles.

A perusal of the impugned award would show that it was specific plea of the applicants that at the relevant time ambulance bearing

registration No. HR-45A- 5855 was driven by Dilbag Singh at a normal speed, on the correct left hand side of the road, observing all traffic rules, but when it hit in the offending truck/container bearing registration No.38K-0458, the said truck/container came from behind on a very fast speed and in a rash and negligent manner being driven by Vijay Singh. It by-passed the ambulance at a very high speed and abruptly came in front of it and then its driver brought it in the middle of the road without caring for the oncoming traffic and suddenly applied breaks, which resulted into the ambulance coming in contact with the offending truck/container. Stand of the appellant-insurer in the written statement was that truck/container bearing registration No. HR-38K-0458 was not involved in the occurrence and driver of the ambulance alone was responsible for the causing of accident. In view of this stand taken by the insurer in the written statement and the circumstances attending on the occurrence the argument based on contributory negligence is not available to the appellant.

Even otherwise, the learned Tribunal while deciding Issue No.1, pertaining to the occurrence, has relied upon the evidence of PW-2, Mohinder Singh and PW-4 Murti Devi, who have proved the occurrence and have been able to stand the test of cross-examination successfully.

In view of the above, I am not inclined to interfere with the well reasoned findings recorded by the learned Tribunal.

Dismissed.

January 19, 2015
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[Mahavir S. Chauhan]
Judge