

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

FAO No.976 of 2002 (O&M)
Date of Decision :04.02.2016

Smt.Kamla Devi and anotherPetitioner

Versus

Abdul Kuddus Abdul Kayyum and Ors.Respondents

Coram Hon'ble Mr. Justice Amol Rattan Singh.

Present: Mr.Rakesh Lathwal, Advocate for the appellants.

Mr.Abhishek Goyal, Advocate,
for the respondent No.3/Insurance Company.

This appeal has been filed seeking damages for the vehicle involved in the accident, in which the appellants unfortunately lost their son. In the claim petition filed by the appellants for compensation for that tragedy, compensation was awarded by the learned Tribunal and the appeal filed by the appellants for enhancement of compensation is also stated to have been allowed by this Court.

By this appeal, compensation is sought for damage to the truck driven by the deceased, which claim was rejected by the learned Tribunal, on the ground that neither any photograph of the damaged vehicle was produced, nor even was the surveyors' report produced, by a surveyor of the Insurance Company, to show the extent of such damages. The Award further states that even the mechanic who had repaired the truck, was not examined by the appellants.

A perusal of the Award shows that the Works Manager of the company, Santosh Works Private Limited in New Delhi, where the truck bearing registration No.HR-10-GA/410 was repaired, was examined and he testified that the bills produced by the appellants, i.e. Ex.P1 to Ex.P3, for an

amount of Rs.2,13,023/-, were issued by his company for repair of the

vehicle. However, the Tribunal disbelieved the said bills on the aforesaid grounds of non-production of the photographs of the damaged vehicle and of the report of the surveyor.

Learned counsel for the appellant has submitted that since the appellants' son had died, they were obviously shocked and could not inform the Insurance Company for having the photographs taken and a survey made of the truck, before it was actually repaired.

Learned counsel for the respondents submits that with no photographs of the damaged truck and no surveyors' report even from the surveyor of the company that had insured the damaged truck owned by the appellants, the Insurance Company of the vehicle which was held to be the "offending vehicle", cannot be held liable to pay damages, simply on the basis of bills produced after the vehicle had been repaired.

Whereas there is no doubt that obviously the appellants would have been under a shock after the death of their son, however, with no proof shown as to the extent of damage to the truck, before it was got repaired, I find no fault with the conclusion arrived at by the learned Tribunal, to the effect that after the truck had already been repaired, the bills produced can actually be wholly fabricated or partly inflated. Learned counsel for the appellants also could not state whether any application had been made by the appellants, either to their own insurance company, or to the respondent- Insurance Company, that the damaged truck be got surveyed, before it was actually sent for repair.

In view of the above, I find no merit in the appeal and the same is dismissed, with no order as to costs.

04.02.2016
anil

(Amol Rattan Singh)
Judge