

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

FAO-4528-2011 (O&M)
Date of decision: 12.05.2016

The Oriental Insurance Company Ltd.

...Appellant

Versus

Smt. Sunita and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. D. P. Gupta, Advocate
for the appellants.

Mr. B. S. Dhillon, Advocate
for respondent Nos.1 to 5.

Mr. Bhupinder Singh, Advocate
for respondent No.6.

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JITENDRA CHAUHAN, J.

CM No.16804-CII of 2011

CM is allowed as prayed for subject to all just exceptions.

CM No.16805-CII of 2011

CM is allowed and Annexure A-1 is taken on record,
subject to all just exceptions.

Main Case

This appeal is directed against the impugned award dated

02.05.2011, passed by learned Motor Accidents Claims Tribunal, Kurukshetra (for short, 'the Tribunal').

This Court vide order dated 07.02.2014 had observed as under:-

“Resultantly, the impugned award is set aside and the matter is remitted back to the trial Court for a fresh decision on issue No.1. The trial Court is directed to examine the witnesses. As stated by the learned counsel for the appellant-Insurance company it would be a duty of the appellant to serve the said witnesses by way of dasti process on its own responsibility. One effective opportunity will be granted to the appellant to examine those witnesses and one effective opportunity is granted to the claimants-respondent Nos.1 to 5 to rebut the evidence on the same terms and conditions as has been granted to the appellant. The trial Court is directed to send a report to this Court before the next date.”

The compliance report has been received, which reads as under:-

“In compliance of the said order, the notices were issued to the parties. The parties through their counsel appeared. The opportunity was granted to the Oriental Insurance Company Limited but it has failed to lead any evidence on the issue No.1. The opposite parties have also chosen not to lead any evidence. Hence, this Court finds that there is no need to give findings afresh on issue No.1.”

Since no fresh evidence has been led by the appellant-Insurance company, for the reasons best known to it, despite availing special opportunity from this Court, the objection raised by the insurance company that the offending vehicle was not involved in the accident or that the accident had not occurred in the manner and place projected by the claimant/respondents, is not tenable. Issue No.1 was rightly decided in favour of the claimant/respondents by the learned Tribunal. There is ample evidence on record to hold that accident in question was the direct result of rash manner of driving of truck bearing registration No.HR37-A-6789 by respondent No.1.

The sole argument raised by the learned counsel for the appellant is that for the determination of the salary the learned Tribunal has erred in relying upon the salary certificate, Mark P1, whereby, the gross salary of ₹21,795/- was accepted by the learned Tribunal. He states that document being not exhibited could not have been relied upon.

On the other hand, the learned counsel for the respondents have vehemently opposed the prayer made by the learned counsel for the appellant.

I have heard the learned counsel for the parties and perused the entire record on file.

The deceased was in the service of Indian Army as

Hawaladar, which is not in dispute. The document, Mark P1, is prepared on the basis of the record maintained by the authorities, therefore, this Court feels that the document issued by the competent authority of the Government of India can safely be relied upon for determination of the salary.

Dismissed.

The statutory amount of ₹25,000/-, deposited by the appellant-Insurance company be placed at the disposal of the learned Tribunal for disbursement.

12.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**