

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

**FAO No.3591 of 2013 (O&M).
Date of Decision: 30.03.2016.**

IFFCO TOKIO General Insurance Company Ltd.Appellant.

VERSUS

Prem Singh and othersRespondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate for the appellant.

Mr. Sudhir Rana, Advocate for
Mr. Sanjeev Majra, Advocate for respondents No.1 to 3.

Service of respondents No.4 and 5 was dispensed with vide
order dated 21.11.2014.

SNEH PRASHAR, J.

By way of this appeal the appellant-insurance company assailed the award dated 01.04.2013 passed by learned Motor Accident Claims Tribunal, Palwal (for short, "the Tribunal") in MACT Case No.RBT-102 of 30.09.2010/25.05.2012 by virtue of which claimants-Prem Singh and others were awarded compensation on account of death of Vijay Pal (father of respondents No.1 to 3 herein), who died in a motor vehicular accident.

The facts in brief garnered from the record are that on

08.06.2010, Vijay Pal (since deceased) alongwith his son Prem Singh had traveled in a three-wheeler from Bamnikhera and had alighted near Tejpal Hotel, G.T. Road. They both were walking on the kacha berm beside the road when in the meantime a Santro Car bearing registration No.HR-51V-7410 (hereinafter referred to as the “offending car”) being driven rashly, negligently and in a high speed came from the side of Bamnikhera and hit Vijay Pal. Due to the impact, Vijay Pal fell down on the road and sustained multiple injuries. He was taken to General Hospital, Palwal for treatment, but he succumbed to the injuries.

The First Information Report No.238 dated 08.06.2010 under Sections 279 and 304A of Indian Penal Code in respect of the accident was registered against Rohtash (driver of the offending car) at Police Station Sadar, Palwal on the statement of Prem Singh.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) filed by legal heirs (sons) of the deceased against driver, owner and insurer of the offending car, impleading them as respondents was allowed by learned Tribunal and an amount of Rs.6,10,000/- was awarded as compensation.

Feeling dissatisfied, the insurer (appellant-insurance company) preferred the instant appeal.

The submissions made by Mr. Neeraj Khanna, learned counsel for the appellant and Mr. Sudhir Rana, learned counsel for respondents No.1 to 3 have been heard and record perused.

At the very outset, learned counsel for the appellant referring to

the contents of the First Information Report argued that Prem Singh son of the deceased, who claimed to be an eyewitness of the accident, had lodged the said report with the police. In his report, though he referred to the offending vehicle as 'Santro Car' but neither mentioned the registration number nor the identity of the driver of the said car. Learned counsel contended that the claimants failed to establish that when and from whom they came to know that the 'offending car' was the vehicle (Santro Car) involved in the accident. PW1 Devender in his cross-examination stated that he does not know who informed him telephonically about the driver's name and car number, whereas PW2 Prem Singh, lodger of the First Information Report, stated that the number of the offending car was seen by him at the time of accident and that he came to know the name of the driver from the police after 2-3 days of the accident. This was contrary to the version of PW2 Prem Singh contained in the First Information Report wherein he had stated that he had not been able to see the number of the Santro Car which hit his father. In such circumstances, there being no reliable evidence to prove the identity of the vehicle involved in the accident, it is clear that the offending car was subsequently introduced only to grab compensation.

There is absolutely no merit in the argument of learned counsel for the appellant. The registration number of the offending vehicle may not have been mentioned in the First Information Report, but the lodger of the report had specifically mentioned that it was a Santro Car. He also mentioned that his paternal uncle Devender had also incidentally reached at

the spot and that the registration number of the Santro Car may be known to Devender. In his cross-examination, PW1 Devender deposed that after causing the accident, the driver of the car sped away but the crowd collected on the spot, chased the car and rounded of the same near Aurangabad. PW2 Prem Singh also stated that the car was rounded of by the crowd after the accident and was handed over to the police. The statement of Prem Singh which formed the basis of First Information Report was recorded on the day of accident after just five hours or so when his father had expired and he must be arranging for transportation of the dead body etc. He may have deposed when he appeared in the witness box that he had seen the number of the offending car after it caused the accident, but the fact remains that he did not mention the same in his report, however, when the crowd had intercepted the offending car after the accident and handed over the same to the police, there remained no doubt about the identity of the vehicle i.e. the offending car which had caused the accident.

No intervention in the finding of learned Tribunal is called for and the appeal is dismissed.

(SNEH PRASHAR)
JUDGE

30.03.2016.
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