

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

FAO No.1402 of 2016(O&M)

Date of Decision: March 15, 2016

United India Insurance Company

...Appellant

Versus

Ashok Kumar and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Rajneesh Malhotra, Advocate assisted by
Ms.Vandanaa Malhotra, Advocate for
the appellant – Insurance Company.

HARINDER SINGH SIDHU, J.

Challenge herein is to the Award dated 9.12.2015 passed by the MACT, Kurukshetra, whereby, claimant – Ashok Kumar was held entitled to compensation of Rs.3,30,648/- on account of having suffered injuries in a vehicular accident on 23.11.2013 in the area of Police Station Sadar Thanesar, District Kurukshetra. The injuries resulted in 8% permanent disability to the claimant – injured.

While assessing the compensation, Ld. Tribunal has awarded different amounts adequately under separate heads.

However, Ld. Counsel for the appellant - Insurance Company has contended that Ld. Tribunal erred in fastening liability on the appellant Company along with owner and driver of the offending vehicle (tractor) to pay the compensation jointly and severally, whereas, it was a case of contributory negligence as admittedly the claimant-injured was driving the motorcycle on

the wrong side of the road.

The point raised herein was dealt with by the Ld. Tribunal elaborately, which returned the finding as under:-

“13. It was argued by learned counsel for respondent No.3 that injured himself was at fault and he was admittedly driving on the wrong side of the road. However, there is nothing on record to show that accident was caused by any fault on the part of the petitioner., No doubt due to construction work being carried out at Umri Chowk, the road was closed, as a result of which, the petitioner was compelled to drive on the wrong side, but at the same time, it was the duty of respondent No.1 to be careful while coming on the road from the Rice Mill. He was required to look towards both the sides before bringing his vehicle on the main road. A perusal of the site plan Ex.R4 shows that the injured was on the extreme left side of the road and the accident in question had taken place on the main road opposite the gate of Dhingra Rice Mill. The injured was compelled to come on the side of the road due to closure of the correct road and not because he was taking a short cut. A person driving a vehicle on the road, is bound to follow the rules and to be vigilant while bringing his vehicle on the main road. There is nothing on record to show that the injured had, in any manner, voluntarily contributed to the accident.....”

In view of the explanation given for driving the motorcycle on the wrong side of the road, which has been examined by the Ld. Tribunal in the light of the evidence produced before it, I see no ground to interfere in the finding so recorded.

Hence, the appeal is dismissed.

March 15, 2016

**(HARINDER SINGH SIDHU)
JUDGE**

gian