IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(1) **FAO No.8695 of 2015 (O&M)**

Date of decision : 25.05.2016

Reliance General Insurance Company Ltd.

.....Appellant

Versus

Renu and others

...Respondents

(2) **FAO No.8696 of 2015 (O&M)**

Reliance General Insurance Company Ltd.

.....Appellant

Versus

Roshan Lal and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. *Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
2. *To be referred to the Reporters or not ? Yes*
3. *Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Sanjeev Kodan, Advocate for appellant-Insurance Company, in both the appeals.

Mr. Sumit Gupta, Advocate for respondents No.1 to 4 in FAO No.8695 of 2015 and for respondents No.1 & 2 in FAO No.8696 of 2015.

Mr. Ashish Gupta, Advocate for respondent No.5 in FAO No.8695 of 2015 and for respondent No.3 in FAO No.8696 of 2015.

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DARSHAN SINGH, J.

This judgment shall dispose of both the appeals mentioned above, which have arisen out of the same award dated 30.10.2015 passed by the learned Motor Accidents Tribunal, Sonepat (hereinafter called the Tribunal).

2. The claim petition bearing MACT case No.11 of 2015 titled as Renu and others Vs. Nitin Maan and another has been filed for grant of compensation on account of death of Ram Mehar and MACT case No.12 of 2012 titled Roshan Lal and another Vs. Nitin Maan and another has been filed for grant of compensation on account of death of Dimple by her parents in the motor vehicular accident, which took place on 16.04.2014.

3. Both the appeals have been preferred by the Reliance General Insurance Company Ltd. (respondent No.2 in the claim petition) to assail the award.

4. Learned counsel for the appellant-Insurance Company contended that the claimants have not been able to establish the negligence on the part of respondent No.1 Nitin Maan while driving car bearing registration No.HR-11F-1800. He contended that in fact the accident has taken place by chance and nobody was at fault. The car has struck against the tree. The daily diary report Ex.PW2/A was lodged with the police wherein it was mentioned that respondent Nitin Maan was not at fault for this accident. He contended that no FIR was got registered with respect to the present accident. The statement of PW5 Satyawan is not reliable, as he is an introduced witness. Thus, he contended that as the negligence on the part of the driver of the car is not established, the claimants were not

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entitled for any compensation.

5. On the other hand, learned counsel for the claimants-respondents contended that the involvement of the car bearing registration No.HR-11F-1800 and respondent No.1 Nitin Maan, the driver of the car in the present accident, are not disputed. He contended that it has come in evidence that the car in question was being driven by respondent No.1 rashly and negligently at the fast speed, which struck against the tree, which shows that respondent No.1 was negligent for causing the accident. He further contended that to get a criminal case registered is not a condition precedent to lodge the claim.

6. I have duly considered the aforesaid contentions.

7. There is no dispute with the proposition of law that in order to lodge the claim under the provisions of the Motor Vehicles Act, 1988, the registration of the criminal case is not a condition precedent. If the claimants are able to show by leading cogent and convincing evidence the accident and negligence of the driver, they will certainly be entitled for grant of compensation.

8. In the instant case as per the case of the claimants on 16.04.2014, respondent No.1 Nitin Maan along with deceased Dimple, Ram Mehar started their journey from village Siwaha in Verna car bearing registration No.HR-11F-1800. Respondent No.1 was driving the car in a rash and negligent manner. When they reached ahead of Lalit Khera Chowk, respondent No.1 lost the balance and car struck against the tree. PW5 Satyawan was following the said car and had witnessed the accident. Ram Mehar died at the spot and Dimple died in the way to the hospital.

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9. No doubt PW3 ASI Azad Singh has proved the copy of the DDR Ex.PW2/A. In the said report, it is mentioned that the vehicle become imbalance and struck against the tree. In the written statement filed by respondent No.1, the factum of the accident has not been disputed but he has pleaded that there was no negligence on his part.

10. The claimants have examined PW5 Satyawan, the witness of the occurrence. He has categorically deposed respondent No.1 was driving the car in a rash and negligent manner. Respondent No.1 Nitin Maan had not stepped into witness box to rebut the statement of PW5 Satyawan. So, there is no reason to disbelieve his statement.

11. Moreover, even if the facts mentioned in the DDR Ex.PW2/A are taken as it is, the car being driven by respondent No.1 struck against the tree standing on the side of the road, which itself indicates that the car in question was being driven by respondent No.1 rashly and negligently and at a speed out of his control, otherwise there was no reason for the vehicle to hit the tree standing on the side of the road.

12. Thus, there is no escape from the conclusion that the present accident has occurred due to rash and negligent driving of car bearing registration No.HR-11F-1800 driven by respondent No.1. So, there is nothing to interfere with the impugned awards.

13. Thus, keeping in view my aforesaid discussion, both these appeals have no merits and the same are hereby dismissed.

25.05.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

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