

204.

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

FAO-1605-2007 (O&M)

Date of decision:01.03.2017

UNITED INDIA INSURANCE CO. LTD. Appellant

versus

KRISHANA AND ORS. Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

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

Mr. Sudhanshu Makkar, Advocate,
for respondents No.1 to 3.

HARI PAL VERMA, J. (Oral)

CM-8263-CII-2007

Prayer in the application filed under Section 151 CPC is for
condonation of delay of 128 days in refiling the appeal.

For the reasons stated in the application, same is allowed
and the delay of 128 days in refiling the appeal is condoned.

FAO-1605-2007

The appellant-Insurance Company has filed the present
appeal against the award dated 03.08.2006 passed by Motor Accident
Claims Tribunal, Bhiwani (for short, the Tribunal).

In the aforesaid award, the claim petition filed by the
claimants (respondents No.1 to 3 herein) under Section 166 of the

Motor Vehicles Act, 1988, on account of death of Suresh Chander (husband of respondent No.1 and father of respondents No.2 and 3), who was aged about 35 years and was working as a Contractor with the Public Health Department, Haryana, was allowed and claimants were held entitled to compensation of ₹ 12 lakhs along with interest @ 9% per annum from the date of institution of claim petition till realization.

Learned counsel for the appellant-Insurance Company has argued that not only the awarded compensation is on higher side, but the accident had occurred due to the negligence of the driver of the Maruti Zen car, namely, Anand @ Ram Niwas (respondent No.4 herein), as he was required to take all possible care at the time of driving the car. The driver of the car with an error of judgment did not apply brakes and the offending car struck against the stationary tractor-trolley from behind. In this manner, the driver of the offending car should have been held responsible for causing the accident.

On the other hand, learned counsel for the respondents No.1 to 3/claimants has justified the award.

I have heard learned counsel for the parties.

The question as to whether the driver-respondent No.4-Anand @ Ram Niwas was guilty for causing the accident while driving his car in rash and negligent manner, has been dealt with by the Tribunal. As per respondent No.4-driver, the accident has occurred because of the error of judgment as initially he was of the impression that the trolley, ahead of him, was moving, but as soon as he came near

to it, he found that it was stationary. Therefore, in order to avert any untoward incident, he turned his car, which led to the accident. PW2-Pardeep claiming himself to be an eyewitness, has deposed about the rash and negligent driving of respondent No.4-driver-Anand @ Ram Niwas. His testimony is trustworthy and reliable as the same is contrary to the uncorroborated self-serving bad statement of the driver-respondent No.4-Anand @ Ram Niwas. The speed of driver of the offending car was certainly uncontrollable because even despite error of judgment, if he would have been driving the vehicle in a controllable speed, he could have stopped his vehicle by applying brakes as it has come to his notice from a considerable distance of 15-20 feet that the trolley, ahead of him, was not moving, rather was stationary. Thus, the Tribunal held the driver-Anand @ Ram Niwas guilty of causing accident while driving his Maruti Zen car bearing registration No.HR-16-D-0292 which was owned by Satuapal (respondent No.5 herein) and insured with the appellant-Insurance Company.

In view of above, this Court does not find any reason to interfere in the well reasoned award dated 03.08.2006 passed by the Tribunal and accordingly, the present appeal filed by the Insurance Company stands dismissed.

(HARI PAL VERMA)
JUDGE

01.03.2017
Pankaj/sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No