

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

FAO No.1134 of 2006 (O&M)

Date of decision : 03.02.2017

United India Insurance Company Ltd.

.....Appellant

Versus

Subash Chander and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Vinod Gupta, Advocate for appellant-Insurance Company.

None for respondents.

DARSHAN SINGH, J.

The present appeal has been preferred by appellant - United India Insurance Company Limited (respondent No.4 in the claim petition) against the award dated 09.12.2005 passed by the learned Motor Accidents Claims Tribunal, Ambala (hereinafter called the "Tribunal"), whereby the learned Tribunal in a petition filed by respondent No.1 Subhash Chander (claimant in the claim petition) under Section 166 of the Motor Vehicles Act, 1988 ("Act" - for short), has awarded compensation to the tune of ₹2,00,000/- on account of the injuries suffered by him in the motor vehicular accident which took place on 06.06.1997.

2. As per the report of the office, respondent No.1 was served and represented by Mr. Sanjay Jain, Advocate. Respondents No.2, 3 and 4 were duly served but none was present on their behalf.

3. The present appeal has been preferred to assail the liability of the Insurance Company.

4. I have heard learned counsel for the appellant - Insurance Company and have gone through the paper-book meticulously.

5. Learned counsel for the appellant - Insurance Company contended that the Insurance Company was deleted originally in the claim petition and was impleaded when the previous award dated 12.10.1998 was set aside vide order dated 11.10.2004. Thus, he contended that the appellant - Insurance Company cannot be made liable to pay interest prior to the date it was impleaded in the petition.

6. I have duly considered the aforesaid contentions.

7. The perusal of the copy of the original award dated 12.10.1998 shows that the appellant - Insurance Company *i.e.* the insurer of truck bearing registration No.PAT-1340 was deleted. The award depicts that the claim petition was only contested by the General Manager, Haryana Roadways Depot, Kaithal *i.e.* respondent No.2 in the appeal. Thus, respondent No.4 Bakhtawar Singh (respondent No.3 in the claim petition) the driver and owner of truck bearing registration No. PAT-1340 would have been proceeded against *ex parte*. So, the appellant-Insurance Company was not impleaded as a party in the original claim petition.

8. The copy of the impugned award dated 09.12.2005 shows that respondent No.3 Bakhtawar Singh moved an application on 06.03.2004 for setting aside the award dated 12.10.1998. His application was allowed vide order dated 11.10.2004 and the case was put up for re-trial. Thus, the

appellant-Insurance Company was not impleaded as a party at the initial stage. So, certainly the appellant-Insurance Company cannot be made liable to pay the interest on the awarded amount prior to it was impleaded as party to the claim petition.

9. Thus, keeping in view my aforesaid discussion the present appeal is hereby partly allowed. The award dated 09.12.2005 stands modified. The appellant-Insurance Company shall be liable to pay the interest on the awarded amount only from the date when it was impleaded as a respondent in the claim petition and prior to that the liability to pay the interest shall be of the insured/owner of the truck bearing registration No.PAT-1340.

03.02.2017

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No