

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

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FAO-1927-2012 (O&M)
Date of decision: 15.09.2017

BALWINDER KAUR

...Appellant

Versus

RELIANCE GENERAL INSURANCE CO. LTD. AND ORS.Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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Present : Mr. Sushil Saini, Advocate for the appellant.

Mr. Rajat Garg, Advocate for
Mr. T.K. Joshi, Advocate for respondent No.1

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REKHA MITTAL, J. (Oral)

1. The claimant is in appeal to assail award dated 08.12.2011 passed by the Motor Accidents Claims Tribunal, Amritsar (herein after to be referred as 'the Tribunal') whereby application under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter to be referred as 'the Act') filed by Balwinder Kaur, mother of deceased Harpal Singh has been dismissed.

Counsel for the appellant has submitted that with regard to occurrence in question DDR was lodged with the police and motorcycle bearing No. PB-14-B-1995 of deceased Harpal Singh was taken into possession, sufficient to establish that Harpal Singh sustained injuries out of use of motorcycle in question, entitling the claimant to get compensation at least to the extent of Rs.1,00,000/- on the basis of special contract between the insured and insurer providing PA cover to the owner/driver on payment of special premium of Rs.50/-.

I have heard counsel for the parties, perused the paper book and the records.

The Tribunal framed five issues including relief, detailed in Para 5 of the award and issue No.1 reads as follows:-

1) Whether Harpal Singh died in motor accident occurred due to use of motor vehicle ie. Motor cycle No. PB-14-B-1995 on 26.11.2007, in the area of Police Post Guntala? OPA

A plain reading of findings of the Tribunal on issue No.1 would make it apparent that the claimant examined herself and Kuldeep Singh (AW-2) to support her claim qua issue No.1 as well as entitlement to get compensation. The Tribunal has noticed that perusal of evidence adduced by the claimant goes to show that no eye-witness of the incident was there who might have stated that motorcycle of deceased Harpal Singh has slipped and he fell down on the road and received injuries. AW-Kuldeep Singh, in his cross examination, stated that on 26.11.2007, during night hours, he was present in his house in the village and on the next day at about 12.15 am (mid night) they received information about death of Harpal Singh given to him telephonically by Gurchain Singh son of sister of his mother.

Counsel for the appellant has failed to challenge correctness of factual findings recorded by the Tribunal. He has failed to point out any materials on record to establish plea of the claimant that the deceased sustained injuries out of use of motor cycle in question. Perusal of the postmortem report of the deceased would indicate that the doctor opined laceration of brain which is necessarily fatal, to be cause of death. As the

appellant failed to adduce any satisfactory much less tangible evidence to connect the injuries sustained by the victim being the result of use of motor cycle in question, I do not find any reason to differ with findings of the Tribunal on issue no.1, on the basis whereof application for compensation was ordered to be dismissed. The claimant has miserably failed to prove the first essential of Section 163-A of the Act, therefore, she cannot assert her claim for grant of compensation either under Section 163-A or Section 140 of the Act.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

15.09.2017

Mohan Bimbra

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No