

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

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Date of decision: 03.08.2017

FAO 2451 of 2012

Amarjit Kaur and another *Appellants*

Versus

Hira Singh and others *Respondents*

FAO No. 2454 of 2012

Palwinder Kaur and another *Appellants*

Versus

Hira Singh and another *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Bhavesh Aggarwal, Advocate for
Mr. Ashish Aggarwal, Advocate
for the appellants

Mr. Vikas Gupta, Advocate
for respondent No. 1

Mr. Suvir Dewan, Advocate
for the insurance Company

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Rekha Mittal, J.

This order shall dispose of aforesaid appeals as these have emerged out of the same accident that took place on 05.07.2010 in which Harpal Singh son of Kulwant Singh and Dalbir Singh son of Harbhajan Singh sustained injuries and eventually they succumbed to the injuries.

Counsel for the appellants would urge that even if Nishan Singh, driver of Motor Cycle bearing registration No. PB-02-BE-4662 owned by Hira Singh was not holding a valid driving licence, the insurance company cannot be exonerated of its liability to pay compensation to the claimants though it may be entitled to get recovery right against

owner/insured of the vehicle in question. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court of India '***National Insurance Company Limited vs. Swaran Singh and others'*** 2004 ACJ 1.

Counsel representing the insurance Company is not in a position to say something in the matter in the light of what has been held by Hon'ble the Supreme Court in *Swaran Singh's* case (supra).

In view of the above, findings recorded by the Tribunal on issue No. 2 are modified to the effect that the insurance company shall be liable to pay compensation to the claimants but it would be entitled to recover the same from the insured by filing an application for execution before the Court.

Counsel for the appellants has made a vain attempt to stake his claim for enhancement of compensation but without examining what has been provided for in the Second Schedule to Section 163-A of the Motor Vehicles Act, 1988.

I have gone through the impugned awards but do not find any reason to interfere in the assessment of compensation. That being so, plea of the claimants for enhancement of compensation is untenable and accordingly rejected.

For the foregoing reasons, the appeals are disposed of with modification in the aforesaid terms.

Photocopy of this order be placed on the file of connected case

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(Rekha Mittal)
Judge

03.08.2017

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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No