

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

F.A.O No. 1048 of 2013

Date of decision:- 22.08.2017

United India Insurance Co. Ltd.

...Appellant

Versus

Dharam Pal & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. M.B. Jain, Advocate
for the appellant.

Mr. Sagar Aggarwal, Advocate for
Mr. Ashit Malik, Advocate
for respondent No. 1.

RITU BAHRI J.

C.M. No. 6605-CII-2013

For the reasons mentioned in the application, delay of 7 days in re-filing of the present appeal is condoned.

The application stands disposed of.

F.A.O 1048-2013

This appeal is by the insurance company disputing the liability foisted upon it by the Motor Accident Claims Tribunal, Kurukshetra (for brevity 'the tribunal'), vide its order/award dated 30.10.2012 whereby the appellant-Company (for short 'the appellant') was held liable to make the compensation to the tune of Rs.6,23,254/-.

The claimants alleged that on the night of 30.07.2011, Dharam Pal was coming from his village Bhola-Khalsa to village Gobindgarh-Majra at the house of maternal uncle. He was driving his motorcycle bearing registration No. HR-05X-6376 correctly on the left side of the road in

accordance with traffic rules and his wife was pillion rider on the said motorcycle. When they reached near the fields of Balwan Singh, a car bearing registration No HR-01A-0048 came from opposite side in a rash and negligent manner and caused accident with the motorcycle of the claimant. Due to the accident, he and his wife fell down and received injuries. F.I.R No. 237 dated 01.08.2011 under Section 279/337/338 IPC was registered against the driver of the car for causing the accident.

On notice, respondent No. 1 and 2 appeared and filed their written statement pleading therein that no accident had taken place with motorcycle. They further denied for want of knowledge as to whether any injuries were received by respondent No. 1 and his wife in the accident.

Respondent No. 3-Insurance Compay filed separate written statement and on merits stated that the petition of the claimants is not maintainable as respondent No. 1 was not hold valid and effective driving licence at the time of accident. Thus, the driver of car have violated the terms and conditions of the insurance policy.

From the pleading of the parties, following issues were framed:-

- “1. Whether the accident in question, resulting into injuries to claimant Dharam Pal was caused due to rash and negligent driving of car No. HR-01A-0048 by its driver, respondent No. 1, as alleged ? OPP*
- 2. If issue No. 1 is proved, to what amount of compensation, the claimant is entitled to and from whom? OPP*
- 3. Whether respondent No. 1 was not holding a valid and effective driving licence at the time of alleged incident? OPR2*
- 4. Whether the petitioner has no locus standi and or cause of action to file and maintain the present petition?OP*
- 5. Whether the vehicle in question was being driven in contravention of the terms and conditions of the policy of insurance and also against the provisions of Motor Vehicle Act, 1988? if so, to what effect? OPR*
- 6. Relief.”*

The learned Tribunal recorded the findings on issue No. 1 in favour of the claimant and against respondents on the ground that the offending vehicle was being driven by respondent No. 1 in a rash and negligent manner, which resulted into accident. Issue Nos. 2 to 5 were also in favour of the petitioner and against the respondents and the learned Tribunal granted compensation to the petitioner to the amount of Rs.6,23,254 (Rs.32,000/- towards pain and sufferings, Rs.1,16,630/- towards medical expenses, Rs.45000/- towards hospitalization, Rs.4,29,624/- towards disability).

The main ground taken by learned counsel for the appellant in this appeal is that there was no proof that disability of the claimant was permanent.

In this regard, this Court vide order dated 25.04.2014 issued direction to Civil Surgeon, Karnal to constitute a Board to examine the existing disability of the claimant and send a report.

In compliance of the above said order, report dated 04.06.2014 has been received and as per this report, claimant is still suffering from 34% disability

In view of the above factual position, order/award dated 30.10.2012 passed by the Tribunal does not require any interference by this Court.

The appeal stands dismissed.

22.08.2017

G Arora

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No