

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

-.-

FAO 1178 of 2013 (O&M)
Date of decision: 26.07.2017

New India Assurance Company Limited

..... Appellant

Versus

Jasveer Singh and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Paul S Saini, Advocate
for the appellant

Mr. Ashwani Arora, Advocate
for respondent No. 1

-.-

Rekha Mittal, J. (Oral)

During the course of arguments, it has been revealed that the appellant-Insurance Company examined Sukhdev Singh, AMHC, Police Station Zirakpur, Tehsil Derabassi to prove the factum that a compromise was effected between the injured/claimant and Navel Kishore, driver of the alleged offending vehicle and on the basis of compromise, cancellation report in FIR No. 248 dated 09.11.2009 for offence punishable under Sections 279, 337, 338 and 427 of the Indian Penal Code, registered at Police Station Zirakpur, District SAS Nagar was prepared and accepted by the Court. Cross-examination of the witness was deferred as counsel for the claimants before the Tribunal required the witness to produce on record affidavit of the complainant.

Perusal of the zimni orders recorded by the Tribunal would make it evident that no effort was made by the Tribunal to secure presence

of the aforesaid witness in order to enable his cross-examination to be completed by counsel for the claimants and for that reason his testimony has not been taken into consideration.

Counsel for the parties are *ad idem* that the impugned award may be set aside and the matter may be remitted to the Tribunal for adjudication afresh after getting completed cross-examination of Sukhdev Singh, AMHC (RW1). They have also agreed that 50% of the amount already disbursed to the claimant shall not be recovered by the Insurance Company till final decision of the matter by the Tribunal. In case, the claimant is held entitled to compensation, the Tribunal will not fiddle with part of the award whereby recovery right has been given to the Insurance Company.

Ordered accordingly.

The parties through their respective counsel are directed to appear before the Tribunal on 21.08.2017.

(Rekha Mittal)
Judge

26.07.2017
mohan bimbra

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