

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

FAO No.2063 of 2015 (O&M)
Date of decision : 24.07.2017

ICICI Lombard General Insurance Company Ltd.

...Appellant

Versus

Srikishan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Paras Money Goyal, Advocate for the appellant.

ANIL KSHETARPAL, J.

This appeal has been filed by the Insurance Company against the award passed by Motor Accident Claims Tribunal, Jhajjar.

The claimant-Srikishan and Bimla Devi, parents of deceased Rohit aged 22 years, filed a claim petition on the ground that deceased Rohit had died in a motor vehicular accident on 22.02.2010. It was further asserted that the deceased was driving the motorcycle whereas his friends namely Parveen and Ritesh were pillion riders. The claim petition was filed for claiming the amount of ₹25,00,000/-. The driver and owner of the vehicle admitted the accident but pleaded that the deceased himself was driving the motorcycle in a rash and negligent manner and colluded from the backside of the Canter.

To prove rash and negligent driving, claimants examined

both the injured persons i.e. Parveen and Ritesh. Parveen and Ritesh supported the claim petition and stated in evidence that the accident had taken place due to the fact that the driver of the Canter suddenly applied breaks without any prior indication.

The Motor Accident Claims Tribunal after examining the evidence available on the file recorded a finding of fact that rash and negligent driving of Canter bearing No.HR-46B-8236 is proved.

Thus, the claim petition was allowed to the extent of ₹1,60,000/- alongwith interest at the rate of 7.5% p.a. from the date of filing of the petition till realisation.

Insurance Company has filed the present appeal challenging the findings of the Motor Accident Claims Tribunal with respect to the rash and negligent driving on the ground that admittedly the motorcycle had hit the Canter from backside, therefore, the driver and owner of the Canter could not be held to be rash and negligent in driving the Canter.

I have heard the learned counsel for the appellant at length and with his able assistance also gone through the statement of two injured persons namely Parveen and Ritesh.

Both these witnesses have unequivocally stated that the accident took place because the driver of the Canter applied breaks suddenly without any prior indication. There is no rebuttal to the aforesaid evidence. It is not possible to conclude that every vehicle which had hit the other vehicle from the backside is rash and negligent. If the vehicle going on front suddenly applies break without even indication

then the vehicle going from the behind cannot be held to be driven in rash and negligent.

No other argument was addressed. Finding no merit in the present appeal, the same is dismissed.

24.07.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No