

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4419 of 2014 (O&M)

Date of Decision: 01.05.2017

Gurmeet Kaur and others

...appellants.

Versus

Pargat Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present: Mr. J.S. Cooner, Advocate
for the appellants.

Mr. Ankit Kharbanda, Advocate
for respondent No.2.

Mr. Sushil Kumar Saini, Advocate
for respondent No.3.

Mr. V.K. Kaushal, Advocate
for respondent No.4.

Mr. R.N. Singal, Advocate
for respondent No.5.

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JASPAL SINGH, J. (Oral)

CM No.12500-CII of 2014.

Through this application, the applicants-appellants have sought
condonation of delay of 06 days in filing the appeal.

In view of the circumstances explained with regard to the delay

in the application, duly supported by an affidavit of Gurmeet Kaur widow of Sawran Singh, delay of 06 days in filing the appeal is condoned.

Let appeal be registered.

FAO No.4419 of 2014.

Challenge in this appeal is to the award dated 22.11.2013 passed by the Motor Accident Claims Tribunal, Amritsar (for short the Tribunal), vide which the claim petition preferred under Section 163-A of the Motor Vehicles Act (for short the Act), has been dismissed on account of the fact that the appellants-claimants have failed to prove that the accident had taken place involving car bearing No.PB-10-BC-0330 on account of rash and negligent driving of his driver i.e. respondent No.1. In fact, the claim petition has been disposed of by the learned Tribunal considering it under Section 166 of the Act instead of 163-A of the Act.

It is well settled proposition of law that under Section 163-A of the Act, only the involvement of the vehicle is to be taken into consideration for the adjudication of the claim petition, whereas under Section 166 of the Act, it is obligatory on the claimant to prove rashness and negligence on the part of the driver of the offending vehicle. As such, the learned Tribunal has fell in error while dealing with and disposing of the claim petition, considering it to be one under Section 166 of the Act. On this score alone, the impugned award dated 22.11.2013 is not sustainable in the eyes of law and deserves to be set aside.

Accordingly, the award dated 22.11.2013 is set aside by way of acceptance of the instant appeal, with further direction to the learned Motor Accident Claims Tribunal, Amritsar to decide the claim petition afresh after considering it under Section 163-A of the Act, that too after affording

proper opportunity of hearing to the parties, in accordance with law.

The parties through their counsel are directed to appear before the Motor Accident Claims Tribunal, Amritsar on 06.07.2017.

Petition stands disposed of.

01.05.2017
sk

(JASPAL SINGH)
JUDGE

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