

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

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Date of decision: 21.08.2017

FAO 3807 of 2017

ICICI Lombard General Insurance Company Limited Appellant

Versus

Diwakar and others

.....Respondents

FAO 3879 of 2017

ICICI Lombard General Insurance Company Limited Appellant

Versus

Suman alias Savita and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Sanjeev Goyal and
Mr. Rajbir Singh, Advocates
for the appellant

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Rekha Mittal, J. (Oral)

This order will dispose of FAO No. 3807 and 3879 of 2017 as these have emerged out of the same award dated 30.03.2017 passed by the Motor Accidents Claims Tribunal, Palwal (in short, 'the Tribunal') whereby compensation has been awarded in regard to injuries sustained by Suman alias Savita and her son Rupesh (since deceased).

The sole submission made by counsel for the appellant is that the alleged offending vehicle Maruti Car bearing registration No. HR 51

AW 3384 has been planted in collusion of the claimants with owner and

driver of the said vehicle, therefore, findings of the Tribunal on issue No. 1 are erroneous and liable to be set aside. To substantiate his contention, it is argued that as per plea of the claimants, Suman, Rupesh and Gian Singh brother of Suman alighted from a Bus and proceeded towards their house on foot when the occurrence in question took place. The FIR with regard to occurrence was lodged by Gian Singh, brother of Suman on the day of occurrence itself against unknown vehicle and driver. Gian Singh has not been examined as a witness by the claimants. Suman appeared in the witness box to prove the occurrence. In cross examination reproduced on pages 15-16 of grounds of appeal, she has stated that Gian Singh her brother had disclosed registration number of the offending Car as HR 51 AW 3384, therefore, testimony of Suman is not sufficient to connect offending vehicle with the occurrence.

I have heard counsel for the appellant and perused the paper book particularly the award impugned.

The presence of Suman, at the spot, being an injured victim of the occurrence cannot be doubted. Suman has given an account of the accident as to how the offending vehicle hit Suman and Rupesh from behind. Her testimony is sufficient to prove that occurrence in question took place due to rash and negligent driving of a car which hit Suman and Rupesh.

Counsel for the appellant, on a query, has fairly informed that Shree Pal, driver of the alleged offending vehicle was booked for causing accident and challaned by the police for committing offence punishable under Sections 279 and 304-A of the Indian Penal Code. Shree Pal did not

appear in the witness box to deny the accident. There is nothing on record

suggestive of the fact that registered owner of the vehicle had any connection with the injured victims in order to allow his vehicle to be involved in the occurrence resulting in initiation of civil and criminal proceedings. Under the circumstances, I do not find any error in findings of the Tribunal upholding plea of the claimants that accident took place due to rash and negligent driving of vehicle bearing No. HR 51 AW 3384 by Shree Pal – respondent.

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly dismissed in limine.

Photo copy of this order be placed on the file of connected case.

(Rekha Mittal)
Judge

21.08.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No