

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

FAO No.5481 of 2017 (O&M)  
Date of decision : 28.08.2017

National Insurance Company Ltd.

...Appellant

Versus

Suman and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Harsh Aggarwal, Advocate for the appellant.

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**ANIL KSHETARPAL, J.**

National Insurance Company is in appeal against the award passed by the Motor Accident Claims Tribunal dated 01.03.2017 awarding the compensation of ₹9,29,000/- on account of death of Raj Singh.

It is the case of the appellant that Raj Singh died on 15.06.2016 after having met with an accident on 08.06.2016

Claimants filed the claim petition. Respondent Nos.1 and 2 i.e. driver and owner did not choose to contest the petition. Insurance Company contested the petition.

Learned Motor Accident Claims Tribunal held that the accident took place due to rash and negligent driving of respondent No.1. Based upon that, the learned Court held the Insurance Company to be liable to pay the compensation.

Learned counsel for the appellant has made following

submissions:-

1. First Information Report in this case was filed after delay of 7 days.
2. Respondent Nos.1 and 2 were proceeded ex parte, therefore, inference must be drawn that the claim petition is on account of collusion.
3. No injury is said to have been caused to the driver of the motorcycle, therefore, the Court must draw a conclusion that no accident took place.
4. There is no mark or sign of the accident having taken place, on the truck i.e. offending vehicle.
5. It is highly improbable for the driver of the motorcycle to note down the number at the time of accident.
6. Kalu has not been examined.

I have considered the submissions and with his able assistance gone through the award passed by the Motor Accident Claims Tribunal.

In this case, the delay of 7 days in lodging the FIR stands explained. Accident took place on 08.06.2016. At that time, two brothers namely Anil and Raj Singh were going on motorcycle when offending vehicle i.e. truck hit them from behind. Raj Singh who was pillion rider suffered injuries. He was removed with the help of one Kalu who came at the spot in his car to General Hospital, Jhajjar. Anil-brother accompanied the injured to General Hospital, Jhajjar. Doctor sent an information to the police. The police officials visited the General Hospital but they came to know that the injured has been referred to PGIMS, Rohtak on account of serious injuries. Thereafter, ASI Karambir reached PGIMS, Rohtak on 09.06.2016 and after obtaining MLR, reached the Ward but injured was not

found present as the injured had been shifted to a private Hospital by then. On 12.06.2016, ASI Karambir reached at Sunflag, Hospital, Rohtak where injured was admitted. However, Doctor opined that injured is unfit to make a statement. On 15.06.2016, the police received telephonic information that injured has died. Anil was found present and his statement was recorded in the hospital, therefore the delay of 7 days stands explained and cannot be taken against the appellant.

No doubt, the defendant Nos.1 and 2 were proceeded ex parte. However, merely because driver and owner have chosen not to contest the claim petition, inference cannot be drawn that the claim petition is on account of collusion. Raj Singh has died. Raj Singh suffered injuries in an accident. Insurance Company has not produced any evidence to prove that there was any collusion between the claimants and defendant Nos.1 and 2. Hence, there is no force in the submission of learned counsel.

Learned counsel for the appellant has further argued that since Anil did not suffer any injury, therefore, inference must be drawn that no accident took place. In this case, facts are apparent. Truck hit the motorcycle from behind. Raj Singh was the pillion rider. He suffered injuries. It is not necessary that the person who was driving the motorcycle must also suffer some injury in that accident. Once it is admitted fact that truck had hit from behind, the inference as suggested by the learned counsel cannot be drawn.

Learned counsel for the appellant has argued that there was no sign or mark of the accident on the offending vehicle i.e. truck. In my view, there is no force in the arguments. The truck is much larger vehicle as compared to motorcycle. It is not the case of head on collision. The truck

had come from behind and hit the motorcycle. A slight push from the behind would be sufficient to make motorcycle topple. There is no necessity that there should be mark or dent available on the truck.

Learned counsel for the appellant has further argued that it is not possible for Anil to note down a number and orally remember the same. Anil was driving the motorcycle. He was present at the time of accident. If a truck had hit his motorcycle causing serious injuries to his brother, it is natural for the brother to disclose the truck number after orally remembering it.

Learned counsel for the appellant has further argued that Kalu has not been examined. It must be remembered that Kalu was only passerby who was travelling in a car. He was stopped by Anil to take the injured to hospital. Once Anil, the brother has appeared and deposed in evidence, examination of Kalu can not said to be necessary.

For the reasons recorded above, there is no scope for interference with the findings of fact arrived at by the Motor Accident Claims Tribunal.

Appeal is dismissed.

**28.08.2017**

*Pawan*

**(ANIL KSHETARPAL)  
JUDGE**

**Whether speaking/reasoned:-                      Yes/No**

**Whether reportable:-                                  Yes/No**