

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 24.08.2017

1. FAO No.5497 of 2017 (O&M)

United India Insurance Company Limited

... Appellant

Vs.

Kamla Devi and others

... Respondents

2. FAO No.5498 of 2017 (O&M)

United India Insurance Company Limited

... Appellant

Vs.

Sunil Kumar and others

... Respondents

3. FAO No.5499 of 2017 (O&M)

United India Insurance Company Limited

... Appellant

Vs.

Ravi Kant and others

... Respondents

4. FAO No.5500 of 2017 (O&M)

United India Insurance Company Limited

... Appellant

Vs.

Smt. Chhota and others

... Respondents

5. FAO No.5501 of 2017 (O&M)

United India Insurance Company Limited

... Appellant

Vs.

Savitri Devi and others

... Respondents

6. FAO No.5502 of 2017 (O&M)

United India Insurance Company Limited

... Appellant

Vs.

Krishana Devi and others

... Respondents

7. FAO No.5503 of 2017 (O&M)

United India Insurance Company Limited

... Appellant

Vs.

Rajesh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. D.P. Gupta, Advocate
for the appellant.

RAMESHWAR SINGH MALIK, J. (ORAL)

This bunch of seven appeals, at the hands of Insurance Company,
is being disposed of vide this common order, with the consent of learned

counsel for the appellant, as all these appeals are directed against the same impugned award and arising out of same set of facts. However, for the facility of reference, facts are being culled out from FAO No.5497 of 2017 (United India Insurance Company Limited Vs. Kamla Devi and others).

Brief facts of the case, as noticed by the learned Motor Accident Claims Tribunal (for short 'MACT') in paras 2 and 3 of the impugned award, are that due to death of Madan son of Sanwal Ram, Pyare Lal son of Shri Dharampal, Satish Kumar son of Duli Chand, Rohtash Singh son of Shri Pit Ram and injuries sustained by the petitioners Sunil Kumar, Ravi Kant and Rajesh in a motor vehicular accident, the petitioners had filed petitions under Section 166 of Motor Vehicles Act, 1988, as amended up to date, seeking compensation.

As per the case of the petitioners that FIR No.16 was registered on the statement of Satish Kumar son of Sher Singh, resident of village Singhani, wherein it had been alleged that he was appointed as a JBT Teacher in Government Primary School, Kharkadi. On 21.01.2014 at about 8:15 a.m., he along with Mahesh Sheoran was travelling in a car towards Loharu. A cruiser bearing registration No.HR-99QA-T-4427 was going ahead of them and many persons were sitting in that vehicle. When they reached at village Dhani Toda, in the meantime a truck bearing registration No.HR-61-A9011 being driven by respondent No.1 in a very high speed and in rash and negligent manner, came from the front side (Loharu side) and directly hit the Curzer vehicle. Due to the heavy impact, the abovesaid Cruiser vehicle turned turtle and its occupants received multiple and grievous injuries. Madan, Pyare

Lal, Satish and Rohtash died at the spot and other occupants received multiple and grievous injuries on their persons. Injured were taken to CHC, Loharu and they were referred to General Hospital, Bhiwani. Dead bodies of all the four deceased persons were taken to General Hospital, Bhiwani, where postmortem was conducted. The accident was caused due to rash and negligent driving of respondent No.1. On the statement of Satish Kumar, FIR No.16 dated 21.01.2014 under Sections 279, 337 and 304-A IPC was registered against the drivers, both the abovesaid vehicles bearing registration No.HR-61A-9011 and No.HR-99QA-T-4427 (HR-61B-7481).

Heard learned counsel for the appellant in all these seven appeals.

Facts are hardly in dispute. As a result of the abovesaid road accident, as many as seven claim petitions were filed on account of four deaths and three persons having suffered serious injuries. All the seven claim petitions were decided together by the learned MACT vide common impugned award dated 28.02.2017. Feeling aggrieved against the impugned award, one Insurance Company has approached this Court.

A bare perusal of the impugned award passed by the learned MACT would make it crystal clear that it is a self-contained award, which is based on true facts of the case as well as the voluminous evidence available on record in favour of the claimants. There were two offending vehicles involved in the accident in question. One offending vehicle was admittedly insured with the appellant-Insurance Company and second offending vehicle was insured with respondent No.9 i.e. Cholamandalam General Insurance Company Ltd.

As per the categorical findings recorded by the learned MACT in

para 22 of the impugned award, at page 30 of the paper book, both the offending vehicles were found involved in the accident in question. One offending vehicle was being driven by Devender and other was being driven by Nasib. Both the drivers of these offending vehicles were found equally rash and negligent in driving their respective vehicles. Thus, drivers of both the offending vehicles were rightly held equally responsible for causing the accident.

The argument raised by learned counsel for appellant that negligence on the part of Nasib-driver of the offending vehicle, insured with the appellant-Insurance Company, was less, has been duly considered but found wholly misplaced, for the reason that there is no such supporting evidence available on record, which may lend any credence to the argument raised by learned counsel for the appellant. Having said that, this Court feels no hesitation to conclude that the learned MACT was well within its jurisdiction to pass the impugned award and the same deserves to be upheld.

Another argument raised by learned counsel for the appellant-Insurance Company alleging that the interest @9% per annum was on higher side, has also been found without any sound basis and is not worth acceptance. There is no contrary material either pointed out or available on record. The learned MACT has recorded cogent and convincing findings in paras 23 to 26 of the impugned award. The law laid down by the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009 (3) CCJ 1298, Santosh Devi Vs. National Insurance Company Limited and others, 2012 STPL (Web) (SC) 248** and

Rajesh and others Vs. Rajbir Singh and others, 2013 ACJ 1403 (SC) has rightly been followed by the learned MACT.

The argument raised by learned counsel for the appellant-Insurance Company in this regard that judgment of the Hon'ble Supreme Court in **Rajesh's** case (supra) is under consideration before the larger bench of the Hon'ble Supreme Court, has also not cut any ice with this Court, for this reason that till the law laid down by the Hon'ble Supreme Court in **Rajesh's** case (supra) is set aside by the larger bench of the Hon'ble Supreme Court, the law laid down in **Rajesh's** case (supra) is binding on all concerned, including this Court and the same has to be followed in its letter and spirit. That is what has been done by the learned MACT, while passing the impugned award and the same deserves to be upheld, for this reason also.

Further, the arguments raised by learned counsel for the appellant-Insurance Company have been found based on technicalities alone. He could not raise any substantive argument on merits of the case and rightly so, because no such argument is available in favour of the appellant-Insurance Company. In fact, the learned MACT has discussed each and every minute detail and appreciated true facts of the case in correct perspective, before passing the impugned award, recording plausible and convincing findings and the impugned award, so far as challenged by the appellant-Insurance Company, deserves to be upheld, for this reason as well.

During the course of hearing, learned counsel for the appellant could not point out that the impugned award was suffering from any patent illegality or perversity, which may warrant interference at the hands of this

Court, while exercising its appellate jurisdiction. So far as the appellant-Insurance Company is concerned, no fault can be found in the impugned award and the same deserve to be upheld.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since no illegality has been found in the impugned award passed by the learned MACT, the same deserves to be upheld. Present appeal is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

Before parting with this order, it deserves to be clarified that the observations made hereinabove will not adversely affect the right of the claimants in any manner on any issue, in case they seek further enhancement in the amount of compensation under all or any of the heads, by approaching this Court by filing their separate appeals.

Resultantly, with the abovesaid observations made, all the abovesaid seven appeals stand dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

24.08.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No