

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

**F.A.O No. 5574 of 2017**

**Date of decision:- 31.08.2017**

IFFCO TOKIO General Insurance Co. Ltd.

...Appellant

Versus

Lakhwinder Singh & another

...Respondents

***CORAM: HON'BLE MS. JUSTICE RITU BAHRI***

Present:- Mr. Ajay Singla, Advocate  
for the appellant.

**RITU BAHRI J. (Oral)**

**C.M. No. 18168-CII-2017**

For the reasons mentioned in the application, delay of 29 days in filing of the appeal is condoned.

The application stands disposed of.

**F.A.O No. 5574 of 2017**

This appeal is by the insurance company disputing the liability foisted upon it by the Motor Accident Claims Tribunal, Bathinda (for brevity 'the tribunal'), vide its order/award dated 01.04.2017 whereby the appellant-Company (for short 'the appellant') was held liable to make the compensation to the tune of Rs.04,07,200/-.

Learned counsel for the appellant has not disputed the factum of accident, which occurred on 29.01.2014 when the claimant along with his father was going on his motorcycle and one Tata Ace bearing registration No. PB 03 AA 7372 being driven by respondent No. 2 hit the motorcycle of the claimant. However, learned counsel has argued that there was no evidence on record which will link the offending vehicle with the accident in question.

This argument of learned counsel for the appellant is liable to be rejected as the F.I.R has been duly registered with regard to the above said accident and the respondent has not stepped in to the witness box to deny the accident. Nor there was any denial to the fact that F.I.R was registered against respondent No. 1. The Tribunal has rightly relied upon a judgment of ***Girdhari Lal vs. Radhey Sham and others (1993-2) PLR Page 109*** wherein it was held that wherever there is a F.I.R regarding rash and negligent driving of the respondent/driver and the driver is being tried in the criminal court or has faced trial arising out of the said F.I.R then it would be prima facie safe to hold that the respondent-driver was rash and negligent in driving his vehicle and caused the accident.

Learned counsel further argued that since the claimant-injured was only learning the working of mason along with his father, therefore the learned Tribunal has awarded the compensation on the higher side.

This argument is also liable to be rejected as the claimant was only 29 years old at the time of the accident and the medical record shows that a major surgery of Tibia was performed whereby several screws along with plates were inserted to support the same. The claimant suffered 10% permanent disability. There is no denial to the fact that the claimant was working as mason along with his father and thus the disability of major limb would certainly become a hurdle in taking up the task of mason in future.

In view of the above, order/award dated 01.04.2017 passed by the Tribunal does not require any interference by this Court.

The appeal stands dismissed.

31.08.2017

G Arora

( ***RITU BAHRI*** )  
**JUDGE**

***Whether speaking/reasoned***  
***Whether reportable***

***Yes/No***  
***Yes/No***