

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

FAO No.583 of 1999(O&M)

Date of decision: 15.1.2018

The New India Assurance Co. Ltd.

.....Appellant

VERSUS

Harinder Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.K. Bashamboo, Advocate for the appellant.

Mr. O.P. Sharma, Advocate for respondents No.1 to 3.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 25.11.1998 passed by the Motor Accidents Claims Tribunal, Ludhiana (in short 'the Tribunal') whereby compensation has been awarded in regard to death of Harvinder Singh in a motor vehicular accident that took place on 29.04.1993.

The Tribunal has awarded compensation to the tune of Rs.1,44,000/- by holding respondents therein to be jointly and severally liable to pay compensation.

The sole submission made by counsel for the insurance company is that as Harvinder Singh was one of the registered owners of the alleged offending vehicle and policy of insurance was purchased by both Gurmit Singh and Harvinder Singh jointly, deceased being himself the insured, claimants cannot press for recovery of compensation from the insurance company by way of indemnification of the insured. He has

supplied copies of documents i.e. registration certificate of vehicle No.PB-10-G-3712 and insurance policy issued in February 1993.

Counsel representing the claimants/respondents has raised a mercy plea that as the application for compensation was filed by the widow, two minor children and parents of deceased Harvinder Singh and the award was passed way back in the year 1998, a serious prejudice shall be caused to the claimants in case the insurance company is exonerated of its liability to pay compensation.

Be that as it may, perusal of the copies of documents supplied by counsel for the insurance company makes it evident that Harvinder Singh son of Darbara Singh was one of the registered owners of the vehicle in question whereas the other registered owner is his brother Gurmit Singh. The insurance policy was issued in the names of both registered owners of the vehicle in question. As Harvinder Singh was registered owner-cum-insured of the vehicle in question, claimants cannot press for compensation against the insurance company by way of indemnification of the insured. The mere fact that only Gurmit Singh, one of the registered owners of the vehicle has been impleaded as a respondent is not sufficient to accept plea of the claimants for grant of compensation against the insurer. That being so, award passed by the Tribunal is liable to be modified to the extent that the insurance company is not liable to pay compensation.

For the foregoing reasons, the appeal is allowed in the aforesaid terms.

JANUARY 15, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no