

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

F.A.O No. 3036 of 2005

Date of decision:- 21.03.2018

New India Assurance Co. Ltd.

...Appellant

Versus

Sandeep and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Suman Jain, Advocate
for the appellant

RITU BAHRI J. (Oral)

The present appeal has been preferred by the Insurance Company-appellant, seeking modification of the award passed by the Motor Accidents Claim Tribunal, Rohtak (for short, 'the Tribunal') to the tune of Rs.01,34,000/-, vide impugned award dated 04.04.2005 in a claim petition filed under Section 166 of the Motor Vehicles Act (for short 'the Act').

On 23.09.2003 Smt Battey, since deceased along with her sons Kuldeep and Ajit was coming to her house on a tractor bearing registration No. HR-13/A/9156 driven by Krishan Kumar, owned by Bhana Ram and Rejender. When they reached near Sikar Wali Thali, Krishan Kumar could not control the tractor being at a fast speed and it turned turtle and Smt. Battey came underneath the tractor. She was taken to PGI, Rohtak where she succumbed to her injuries.

Learned counsel for the appellant is challenging the impugned award only on the ground that since the tractor was being driven in contravention of the insurance policy, the appellant is not liable to pay the insurance.

This aspect has been considered by the Tribunal and it has been held that by no stretch of imagination, it can be said that Smt. Battey, Ajit and Kuldeep comes under the mischief of unauthorised person, as they were travelling on the tractor after doing their day job and were returning to their village from the fields of respondent Nos. 2 and 3.

Since the tractor was being used for agriculture purpose and the passengers who were travelling were daily wagers, no ground is made out to interfere in the impugned award.

The appeal stands dismissed.

21.03.2018

G Arora

Whether speaking/reasoned
Whether reportable

Yes
No

(RITU BAHRI)
JUDGE