

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

Date of decision: 02.02.2018

FAO No.5072 of 2009 (O&M)

United India Insurance Company Ltd. ...Appellant

Versus

Smt. Purni Devi and others ...Respondents

FAO No.5851 of 2009 (O&M)

Avtar Singh ...Appellant

Versus

United India Insurance Company Ltd. and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Sonal Dutta, Advocate for
Mr. Vikas M. Gupta, Advocate
for the insurance company.

Mr. Amrik Singh, Advocate
for the appellant in FAO No.5851 of 2009 and
for respondent No.5 in FAO No.5072 of 2009.

Mr. Ishan Cooner, Advocate for
Mr. J.S. Cooner, Advocate
for respondents No.1 to 4 in FAO No.5072 of 2009 and
for respondents No.2 to 5 in FAO No.5851 of 2009.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.5072 and 5851 of 2009 as

these have emerged out of award dated 15.06.2009 passed by the Motor Accidents Claims Tribunal, SAS Nagar, Mohali.

FAO No.5072 of 2009 has been filed by the United India Insurance Company Ltd. whereas FAO No.5851 of 2009 has been filed by owner/insured of the alleged offending vehicle truck No.HR-37-4074.

FAO No.5072 of 2009

CM No.24736-CII of 2009

Heard.

Allowed as prayed for. Delay of 26 days in filing the appeal stands condoned.

Main Case

Counsel for the appellant-insurance company has submitted that with regard to the occurrence in question, claimants filed application under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act') before the Motor Accidents Claims Tribunal, Ambala and the same was allowed to be withdrawn with liberty to file a fresh petition on the same cause of action subject to payment of Rs.500/- vide order Annexure A-1. The claimants filed an application under Section 166 of the Act before the Motor Accidents Claims Tribunal, Panchkula but the same was disposed of vide order dated 26.04.2006 (Annexure A-2) whereby it has been held that the claimants cannot legally change the place of jurisdiction on their own, the claim petition was returned in original to the claimants for presentation before the Tribunal at Ambala. It is argued with vehemence that despite

orders Annexures A-1 and A-2 passed by the Tribunals, claimants for the reasons best known filed application under Section 163-A of the Act before the Tribunal at Mohali and the same has been allowed without appreciating that the claimants were required to file the petition only before the Tribunal at Ambala in terms of the aforesaid orders that have attained finality between the parties. It is further submitted that in view of the aforesaid background, award passed by the Tribunal at Mohali cannot be allowed to sustain and liable to be set aside.

Counsel representing the claimants has not disputed filing of claim applications before the Tribunal at Ambala as well as Panchkula which were disposed of vide orders Annexures A-1 and A-2, respectively. He has fairly conceded that in the face of orders passed by the Tribunals at Ambala and Panchkula, the claimants could not invoke the jurisdiction of the Tribunal at Mohali. He has further submitted that the award passed by the Tribunal at Mohali may be set aside but without prejudice to right of the claimants to file a petition before the Tribunal at Ambala. It is prayed that as 50% of compensation assessed by the Tribunal at Mohali has already been paid to the claimants, they may be protected against recovery of said amount by the insurance company.

Be that as it may, it is undisputed position of the case that the claimants in place of complying with orders Annexures A-1 and A-2 filed an application under Section 163-A of the Act before the Tribunal at SAS

Nagar, Mohali. In view of the orders passed by the Tribunals at Ambala as well as Panchkula, the only option available with the claimants was to file a fresh petition before the Tribunal at Ambala after necessary compliance with the aforesaid orders. In this view of the matter, I find merit in contention of the insurance company that award passed by the Tribunal at SAS Nagar, Mohali is liable to be set aside.

For the foregoing reasons, the appeal is allowed, award dated 15.06.2009 is set aside but without prejudice to right of the claimants to file a fresh petition for compensation before the Tribunal at Ambala. In case the claimants filed the petition before the Tribunal at Ambala within a period of three months from the date of receipt of certified copy of order, the insurance company shall not recover the amount of compensation already paid to the claimants till decision of the matter by the Tribunal at Ambala.

FAO No.5851 of 2009

As award passed by the Tribunal at SAS Nagar, Mohali has been set aside, appeal preferred by Avtar Singh (FAO No.5851 of 2009) is rendered infructuous and disposed of accordingly.

Amount of Rs.25,000/- be remitted to the Tribunal at Ambala for payment to claimants at an appropriate stage.

02.02.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No