

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

**FAO No. 1869 of 2010 (O & M)
Date of Decision:-15.10.2018**

National Insurance Co. Ltd.

...Appellant

Versus

Sobha Rani and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE REKHA MITTAL

Present:- Mr. Ashwani Talwar, Advocate
for the appellant-Insurance Company.

Mr. Pankaj Jain, Advocate
for respondent Nos.1 to 5.

REKHA MITTAL J.(Oral)

The present appeal directs challenge against award dated 01.02.2010 passed by the Motor Accidents Claims Tribunal, Gurgaon (for short 'the Tribunal') whereby compensation has been assessed on account of death of Subhash Chand in a motor vehicular accident that took place on 17.12.2007.

The Tribunal answered issue No.1 with regard to accident being the result of rash and negligent driving of Maruti Car bearing registration No.HR-26-D-8081 by Hammid Hussain, its driver, in favour of the claimants and accordingly, their plea for grant of compensation was allowed and compensation to the tune of Rs.4,59,279/- was assessed,

detailed under issue No.2 by the Tribunal.

This Court on 14.05.2014 recorded a finding that the Court is prima facie of the view that evidence brought before the Tribunal is not sufficient to find involvement of the vehicle and records of the Tribunal were sent for. Later, on 27.8.2015, since the witnesses sought to be summoned vide order dated 14.5.2014 were not served, the matter was remitted to the Tribunal for recording statements of witnesses namely Head Constable Arun Kumar, Ravi @ Ravinder Singla and Hamid Hussain, referred to in the orders dated 14.5.2014 and 27.8.2015. In pursuance of directions issued by this Court vide order dated 27.8.2015, the Tribunal recorded statements of aforesaid three witnesses CW1 to CW3 and copies of those statements along with report dated 05.12.2015 were forwarded to this Court.

Counsel for the claimants would urge that on the basis of additional evidence recorded by the Tribunal, insurance company cannot be heard to say that the vehicle in question has been falsely involved in the occurrence or findings of the Tribunal on issue No.1 are faulty.

Counsel for the insurance company has failed to point out any tangible material brought-forth in cross-examination of aforesaid witnesses to substantiate its plea that the vehicle in question was not involved in the occurrence or has been planted later to get compensation from the insurance company. In this view of the matter, findings recorded by the Tribunal attributing rash and negligent driving to offending vehicle resulting in accidental injuries to Shri Subhash Chand that proved fatal are ordered to

be affirmed.

As the insurance company has filed the appeal to assail findings of the Tribunal on issue No.1 only, nothing more survives for consideration of this Court.

For the foregoing reasons, the appeal stands disposed of.

October 15, 2018
Vijay Asija

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No