

FAO-4085 of 2010(O&M)
Date of Decision: 4.12.2018

The Oriental Insurance Company Limited

---Appellant

versus

Vikram Handuja and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Vinod Chaudhri, Advocate
for the appellant**

**Mr. Sandeep Goyal, Advocate,
for respondent No. 1**

Rekha Mittal, J.

The present appeal directs challenge against award dated 10.3.2010 passed by the Motor Accidents Claims Tribunal, Karnal (in short “the Tribunal”) whereby compensation has been assessed on account of damage to three wheeler bearing chassis No. HJG-556984 Engine No. R7G-0419214 in a motor vehicular accident that took place on 23.10.2007.

The Tribunal has awarded Rs. 1,51,000/- on the basis of price of three wheeler, purchased by the claimant/respondent from M/s Pearl Motors, Karnal on 26.9.2007 and the occurrence took place on 23.10.2007.

The main plea of the insurance company to challenge the award is that in view of policy issued by the insurance company in respect of offending truck tralla No. HR-38-8045, liability of the insurance company to pay for damage to property of third party is limited to

the extent of Rs. 6000/-, therefore, the insurance company cannot be held liable to pay the entire amount assessed by the Tribunal.

Counsel representing the claimant-respondent No. 1 has refuted contention of the insurance company and would further apprise the court that appeal against respondents No. 2 and 3, driver and owner of offending vehicle already stands dismissed, vide order dated 5.8.2016 passed by this Court, therefore, the terms and conditions of the award cannot be altered to prejudice of respondents No. 2 and 3 without providing them an opportunity of hearing.

I have heard counsel for the parties and perused the paper book particularly the award.

Indisputably, the application for grant of compensation filed by the claimant with regard to damage of the aforesaid three wheeler was allowed and compensation has been assessed and liability of respondents before the Tribunal is joint and several. As has rightly been pointed out by counsel for respondent No. 1, appeal against respondents No. 2 and 3 has been dismissed by this Court on 5.8.2016. In the given circumstances, no modification/alteration can be made in the award, prejudicial to interests of respondents No. 2 and 3, therefore, contention raised by counsel for the insurance company that its liability is limited to the extent of Rs. 6000/- cannot be accepted.

For the foregoing reasons, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

4.12.2018

PARAMJIT	Whether speaking/reasoned	: Yes
	Whether reportable	: Yes/No