

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

FAO No. 4928 of 2011 (O&M)

Date of Decision:- 02.02.2018

IFFCO TOKIO General Insurance Co.Appellant

Versus

Banarsi Dass & Ors. ...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Ankur Gupta, Advocate, for the appellant.

None for respondent Nos. 3 & 4.

AVNEESH JHINGAN, J. (Oral)

The insurance company has filed this appeal against award dated 07.04.2011 passed by Motor Accident Claims Tribunal, Panchkula (for short,'the Tribunal').

In a motor vehicular accident that occurred on 07.07.2009 Labh Singh lost his life. In the said accident JCB machine bearing registration No. HR-04-N-0688 was the offending vehicle.

In the claim petition filed by the legal heirs of the deceased under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the Tribunal awarded a sum of Rs.2,62,000/- along with interest @7.5% per annum. The issue that the driver was holding a valid driving license was decided against the insurance company.

The Insurance Company has filed the present appeal only on the ground that they should be awarded recovery rights as the driver was not holding a valid driving license. Along with appeal, an application has been made for producing additional evidence.

Learned counsel for the Insurance Company contends that the verification report of the driving license was received on 27.05.2011 i.e. after the decision of the claim petition.

Learned counsel for the appellant states that 50% of the compensation has already been disbursed to the claimants. He further states that he is not challenging the quantum of compensation.

Nobody puts appearance for respondent Nos. 3 and 4 inspite of service.

The matter only with regard to fixing of liability to pay compensation is remitted back to the Tribunal. The Tribunal would afford opportunity to the appellant as well as respondent Nos. 3 and 4 to adduce fresh evidence in support of their claims. The Tribunal may consider the verification report subject to the objections raised by respondent Nos. 3 and 4.

It is, however, clarified that the remand would be subject to the appellant disbursing the balance amount along with interest to the claimants within six weeks' from today.

The parties are directed to appear before the Tribunal on 26.03.2018.

February 02, 2018
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No