

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

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FAO No.5716 of 2011 (O&M)

Date of decision: 01.08.2018

NEW INDIA ASSURANCE COMPANY LTD.

... Appellant

Versus

KHAZANI AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Neeraj Khanna, Advocate for the appellant.

Mr. Rakesh Nehra, Advocate for respondent No.2.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 04.05.2011 passed by the Motor Accidents Claims Tribunal, Rohtak whereby the Tribunal has awarded compensation of Rs.50,000/- under 'No Fault Liability' with regard to death of Ramesh.

The sole submission made by counsel for the appellant is that as the deceased was travelling in a goods vehicle, therefore, he was a gratuitous passenger, insurance company is not liable to pay compensation.

Counsel for respondent No.2 has supported findings of the Tribunal holding the insurance company liable to pay compensation.

The contention raised by counsel for the insurance company cannot be accepted in the light of judgment of this Court **National Insurance Co. Ltd. Vs. Harjit Singh and another, 2016(1) Law Herald 145** in which this Court has relied upon judgment of Hon'ble the Supreme Court **Eshwarappa @ Maheshwarappa and another Versus C. S.**

Gurushanthappa and another-2010(8) Scale 263. A relevant extract from paras 3 and 4 of the judgment in **Harjit Singh and another's case (supra)** reads as follows:-

“3. In a situation where the Insurance Company cannot be made liable under the terms of the policy, there is a minimum liability which the Motor Vehicles Act constitutes under Section 140 where all that has been seen is whether the vehicle that was involved in the accident had been insured with the particular Insurance Company. If it was in a case of injury resulting in permanent disability, the maximum compensation will be Rs.25,000/- and in case of death, the maximum compensation of Rs.50,000/- would require to be paid in terms of the judgment of the Supreme Court in Eshwarappa @ Maheshwarappa and another Versus C. S. Gurushanthappa and another-2010(8) Scale 263.

4. The awards of the court below are modified and in FAO No.1245 of 2003, the Insurance Company's liability will be restricted to Rs.25,000/- with interest as granted already and in FAO No.5016 of 2003, it is restricted to Rs.50,000/- with interest as granted already. The awards passed against the Insurance Company over the above amounts stipulated under Section 140 in petition filed under Section 163-A of Motor Vehicles Act are not tenable and set aside.”

In this view of the matter, the appeal sans merit and liable to be dismissed.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

No order as to costs.

(REKHA MITTAL)
JUDGE

01.08.2018
ashok

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No