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

**FAO No.1032 of 2013 (O&M)  
Date of Decision: 12.11.2018**

**UNITED INDIA INSURANCE CO LTD  
.....Appellant**

**Vs**

**SANJIDA & ORS  
....Respondents**

**CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Paul S. Saini, Advocate with  
Mr. Vipul Sharma, Advocate  
for the appellant.

Mr. S.S. Swaich, Advocate  
for LR's of respondent No.3.

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**RAJ MOHAN SINGH, J. (Oral)**

[1]. This is an appeal filed by the Insurance Company against the award dated 19.09.2012 passed by the Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal') whereby an award of Rs.2,35,000/- was passed in favour of the claimants along with interest @ 9% per annum from the date of claim petition till actual realization of the amount. Respondents No.2 and 3 were jointly and severally held liable to pay the amount of compensation.

[2]. Perusal of the record would show that respondent No.1

driver was found to be dead at the time of proceedings before the Tribunal and his legal representatives were not brought on record. Respondent No.2 owner was proceeded against ex parte after resorting provisions in terms of Order 5 Rule 20 CPC.

[3]. Respondent No.3 appellant in the written statement denied its liability on all pertinent aspects.

[4]. Both the parties went to trial on the aforesaid issues:-

- “(1) Whether Aftab Alam died in motor vehicular accident caused by respondent No.1 Gurdeep Singh while driving the truck bearing registration No.PB-10AL-0143 in rash and negligent manner? OP claimant.*
- (2) If issue No.1 is proved, whether claimants are entitled to claim compensation, if so, at what rate and from which of the respondent? OP Claimant.*
- (3) Whether the claim petition is not maintainable in its present form? OPR*
- (4) Whether driver of the truck bearing registration No.PB-10AL-0143 did not have valid registration certificate, fitness certificate and route permit? OPR'*
- (5) Relief.”*

[5]. Issues No.3 and 4 were in respect of maintainability of claim petition as well as in the context of the driver possessing valid driving licence of the offending vehicle and also in respect of valid registration number, fitness certificate and route permit.

The subsequent features were relatable to the owner. Legal

representatives of driver as well as the owner himself did not come forward to contest the claim petition filed by the claimants.

[6]. The perusal of the impugned award would show that the Tribunal has not adverted to issues No.3 and 4 in any manner, rather recorded findings in para no.31 of the award to the following effect:-

*“31. So far as the liability of the respondents is concerned, respondent No.1 being driver, respondent No.2 being owner and respondent No.3 being insurer of the offending vehicle. However, it has come on record that respondent no.1 has since died and no application for impleading the Lrs of respondent no.1 has been filed on records. Therefore, now liability is shifted upon respondent no.2 and 3 only. Therefore, respondents no.2 and 3 are liable to pay compensation to the claimants, jointly and severely.”*

[7]. In the absence of any findings under issues No.3 and 4, no such liability would have been fastened upon respondent No.3/appellant. Particulars of vehicle viz. the driving licence, registration certificate, fitness certificate and route permit have not come forth on record, nor the legal representatives of respondent-driver were impleaded. Though it was legally incumbent upon the legal representatives of their own in terms of amended provision of Order 22 Rules 2-A and 2-B as amended vide Notification No.GSR 39/C.A.5/1908/S-12257 w.e.f. 11.04.1975.

[8]. Under the orders of the Court, the amount under the award has already been deposited by the Insurance Company/owner.

[9]. In view of facts and circumstances of the case, it would be just and expedient to direct the Tribunal to revisit the impugned order by summoning the legal representatives of deceased respondent No.1, respondent No.2 afresh and decide the issues No.3 and 4 in accordance with law. Consequently, the impugned dated 19.09.2012 passed by the Tribunal is set aside.

[10]. With the aforesaid direction, this revision petition is disposed of. The amount so deposited by the appellant shall remain intact as per the direction issued by this Court vide order dated 14.03.2013. Both the parties are directed to appear before the Tribunal on 03.12.2018 and would be at liberty to adduce the evidence in support of their case.

November 12, 2018

*Atik*

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)**  
**JUDGE**

Yes/No

Yes/No