

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

Date of decision : December 18, 2018

1. FAO No.10457 of 2014 (O&M)

Bhopal Singh vs Himanshu and others

2. FAO No.5952 of 2018 (O&M)

Bhopal Singh vs Jagat Singh and another

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Jasbir Mor, Advocate
for the appellant.

Mr. HN Sahu, Advocate
for respondents No.1 to 4.

Ms. Vandana Malhotra, Advocate
for the respondent-Insurance Company.

Ajay Tewari, J (Oral)

C.M No.20898-C of 2018 in FAO No.5952 of 2018

This is an application for condonation of delay of 1399 days in filing the appeal. No reply has been filed. For the reasons recorded, this application is allowed and delay is condoned.

FAO Nos.10457 of 2014 & 5952 of 2018

This order shall dispose of the aforesaid appeals.

These appeals have been filed by the owner against the Awards dated 14.8.2014 whereby two claim petitions were allowed. Since a very limited issue has been raised by the appellant, further reference to the detailed facts would not be required.

Counsel for the appellant has argued that the Tribunal has wrongly foisted liability on the owner/driver. As per him, the vehicle in question was a tractor and on the fateful day, the appellant was taking sugarcane from his fields which was loaded in the trolley and on the way the accident took place. As per him, the judgments relied upon by the Tribunal are now no longer applicable in view of the decision of the Supreme Court in Fahim Ahmad and others v. United India Insurance Co. Ltd and others, 2015(1) SCC (Civil) 258 and in view of this judgment, liability has to be foisted on the Insurance Company.

Counsel for the Insurance Company is not in a position to cite any contrary judgment. In the circumstances, it has to be held that the liability to pay the compensation was wrongly foisted upon the owner/driver. Consequently, these appeals are allowed and it is held that the Insurance Company is liable to pay the compensation.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

December 18, 2018
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No