

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

**CM No.10667-CII of 2018 in/and
FAO No.2092 of 2015
Date of decision: 28.05.2018**

Mohinder Singh

....Appellants

Versus

Harjinder Singh Malhi and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. H.K. Brinda, Advocate,
for the appellant.

Mr. Neeraj Khanna, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

CM No.6484-CII of 2015

For the reasons stated in the application, same is allowed and
delay of 98 days in filing of the appeal is condoned.

CM No.10667-CII of 2018

The application is for filing fresh grounds of appeal.

In view of the averments mentioned in the application, same is
allowed and fresh grounds of appeal are taken on record.

FAO No.2092 of 2015 (O&M)

This appeal has been filed against the judgment/award dated
03.07.2014 passed by the Motor Accident Claims Tribunal, Rupnagar,
whereby claim petition filed by claimant-appellant under Section 166 of the
Motor Vehicle Act (hereinafter referred to as 'the Act') seeking
compensation on account of damage of his motorcycle in a motor vehicular
accident, has been dismissed.

Brief facts of the case are that on 16.05.2013, Jaswant Singh son of Bachna Ram, after collecting milk from Bahadur Singh, left for Chamkaur Sahib on a motorcycle, make Hero Honda, bearing registration No. PB-12-J-8446 (T). At about 8.00 A.M., when he reached ahead of Petrol Pump, Chamkaur Sahib, in the meantime, one Cruze Car bearing registration No. PB-12-P-9212 being driven by Harjinder Singh Malhi-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against the motorcycle, as a result of which, Jaswant Singh fell 20 years ahead of his motorcycle and received multiple grievous injuries. Motorcycle was totally damaged in the accident. Jawant Singh was taken to Civil Hospital, Chamkaur Sahib, from where, he was referred to PGI, Chandigarh, where he died. With regard to the accident, FIR No.85 dated 16.05.2013 was registered against respondent No.1 at Police Station, Chamkaur Sahib on the statement of Bahadur Singh. Present claimant-Mohinder Singh is the registered owner of the aforesaid motorcycle, which was damaged in the accident. Consequently, the claimant-appellant filed a claim petition before the Tribunal, which was dismissed vide impugned judgment dated 03.07.2014. Feeling dissatisfied with the impugned judgment/award, the claimant-appellant has preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

While dismissing the claim petition, the Tribunal has observed that as per FIR Ex.PA and statement of Bahadur Singh (PW-3), the accident was not in dispute. Claimant-Mohinder Singh (PW-1) deposed that he was owner of the motorcycle, make Hero Honda CD Delux, bearing No. PB-12-J-8446 (T), which was totally damaged in the accident. Photographs, in this

regard, have been proved on record as Ex.P6 & Ex.P7. Since, the claimant was not able to prove the alleged loss caused to the motorcycle, his claim for damage has been dismissed.

The Insurance Company is not disputing that the accident had taken place and damage has been caused to the motorcycle. However, learned counsel for the Insurance Company states that the motorcycle was insured only for damages upto Rs.6000/-.

Keeping in view the fact that since the motorcycle was insured with the Insurance Company to indemnify the damage to the extent of Rs.6000/-, this appeal deserves to be allowed, even though there was no assessment with regard to the loss caused to the motorcycle.

Resultantly, this appeal is allowed and respondent-Insurance Company is directed to pay compensation of Rs.6000/- to the claimant-appellant on account of damage caused to the motorcycle as per insurance policy Ex.R3. The amount of compensation of Rs.6000/- shall be payable within a period of two months from the date of receipt of certified copy of this order along with interest @ 7.5% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of “**Shri Nagar Mal and others vs. The Oriental Insurance Company Ltd. and others**, Civil Appeal No.448 of 2018 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018.”

Accordingly, the impugned judgment/award is set aside and the present appeal is allowed.

(RITU BAHRI)
JUDGE

28.05.2018
ajp