

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

FAO No.5993 of 2013 (O&M)

Date of Decision:08.03.2018

Shri Ram General Insurance Company Ltd.Appellant

Vs.

Sanjiv Thaman and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Tajender K. Joshi, Advocate for the appellant.

RAMENDRA JAIN, J. (Oral)

CM No.24718-CII of 2013

For the reasons mentioned in the application, the same is allowed. Delay of 219 days in filing the appeal is condoned.

FAO No.5993 of 2013 (O&M)

Through this appeal, the Insurance Company has laid challenge to the impugned award dated 10.01.2013 of the Motor Accident Claims Tribunal, Patiala whereby it has been jointly and severally made liable to make payment of compensation of ₹2,80,554/- to respondent No.1-claimant.

Learned counsel for the appellant inter-alia contends that the FIR of the accident in question was lodged against the driver of the Tipper bearing No.PB-11AN/9411 alleging that the same had occurred on account of his rash and negligent driving. During investigation, the police also found the driver of the aforesaid Tipper responsible for causing the accident in question by his rash and negligent driving. Therefore, the learned Tribunal below has erred in holding that it was a case of composite

negligence inasmuch as the vehicle i.e. the bus, insured with the appellant and the Tipper, both were responsible for causing the accident in question and further that it was choice of the claimant to file claim petition against anyone of them.

Having given consideration thought to the submissions made by learned counsel for the appellant, I find the instant appeal completely devoid of any merit for the reason that in the FIR, negligence of drivers of both the vehicles, i.e. the bus insured with by the appellant in which respondent No.1 was travelling and the Tipper was disclosed.

A co-ordinate Bench of this Court vide judgment dated 08.04.2010 in FAO No.4508 of 2009 titled as “United India Insurance Company Ltd. v. Sham Lal and others” has held that the Tribunal being a Civil Court has to decide a case on the basis of evidence brought before it. Once the evidence qua the accident brought by the claimants goes unrebutted, the finding of the Tribunal cannot be upset.

In the instant case, the respondent No.1- claimant as CW5 has specifically testified about the negligence of respondent No.2 while driving the bus in which he was travelling, and the same has gone unrebutted.

Thus, in view of the discussion made above, this Court finds no illegality or perversity in the impugned award being passed on the basis of evidence brought before it.

Hence, the appeal is dismissed.

An amount of ₹25,000/- deposited before this Court as a condition precedent to file this appeal be sent to the concerned Motor Accident Claims Tribunal, Patiala for onward disbursement of the same to

the claimant in accordance with law against proper receipt and identification.

March 08, 2018
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(RAMENDRA JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No