

FAO No. 5923 of 2014

DECIDED ON: DECEMBER 04, 2018

MURTI DEVI

.....APPELLANT

VERSUS

MANJEET AND ANR

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rakesh Lathwal, Advocate
for the appellant.

None for respondent No.1

Mr. Harsh Aggarwal, Advocate
for the respondent-Insurance Company.

AVNEESH JHINGAN, J (ORAL)

The award dated 19.11.2013 passed by Motor Accident Claims Tribunal, Sonapat (for short 'the Tribunal') dismissing the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (for brevity 'the Act'), has been assailed in appeal.

In a motor vehicular accident that took place on 03.10.2009, Sunil Kumar lost his life. FIR No. 357 of 2012, under Sections 279, 337 and 304-A was registered.

The Tribunal dismissed the claim petition on the ground that the deceased was a pillion rider on the motorcycle and was not covered under the

insurance policy. The finding of Tribunal is reproduced below:-

“In the instant case Ex.R1 the policy specifically mentions that the insurance company is liable to pay only to the extent of Rs. 1 lakhs as compensation to owner cum driver. It is nowhere mentioned that the insurance company is liable to make payment of compensation with regard to pillion rider. In these circumstances, the claimant is not entitled to any compensation. Hence, issue no.2 is decided against the petitioner.”

Heard learned counsel for the parties and perused the paper book.

Learned counsel for the parties are *ad-idem* that the policy of the vehicle was a comprehensive policy. This fact has not been considered by the Tribunal while dismissing the claim petition.

Since, further evidence would be required to decide various factual aspects, hence, the matter is remitted back to the Tribunal to decide the claim petition afresh after affording an opportunity of hearing to the parties to adduce fresh evidence, if so desired.

Parties are directed to appear before the Tribunal on 15.01.2019.

DECEMBER 04, 2018
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>