

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 5461 of 2016(O&M)

Date of Decision: 13.12.2018

Shakuntla Devi and another

---Appellants

versus

Mandeep Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajbir Singh, Advocate
for the appellants**

Rekha Mittal, J.

The claimants are in appeal against award dated 5.1.2016 passed by the Motor Accidents Claims Tribunal, Sangrur (in short “the Tribunal”) whereby application for grant of compensation filed under Section 166 of the Motor Vehicles Act, 1988 has been allowed to the limited extent of awarding compensation of Rs. 50,000/- under 'no fault liability'.

Perusal of the award would reveal that the claimants did not examine a witness to establish their plea that accident occurred due to rash and negligent driving of offending vehicle i.e. Truck-tralla No. PB-03P-9204 by its driver. Counsel has fairly informed that the criminal trial on the basis of FIR No. 219 dated 28.8.2010 culminated in judgment of acquittal. As has been noticed by the Tribunal in para 19 of the award, there cannot be dispute that in a claim under Section 166 of the Act, rash and negligent

driving of the offending vehicle is a sine qua non for maintaining claim for compensation. As the claimants failed to establish the said plea by discharging onus of issue No. 1, there is no option with this court except to affirm findings of the Tribunal on issue No. 1 and ordered accordingly. No sooner findings of the Tribunal on issue No. 1 are affirmed, the claimants can not assert for grant of compensation over and above Rs. 50,000/- awarded by the Tribunal under 'no fault liability' by invoking Section 140 of the Act.

In view of what has been discussed hereinabove, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay in refiling the appeal is of academic relevance only.

(Rekha Mittal)
Judge

13.12.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No