

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 29.05.2018

1. FAO No.8684 of 2014(O&M)

National Insurance Company Limited ... Appellant

Versus

Ram Pal & ors. ... Respondents

2. FAO No.5054 of 2015(O&M)

Ram Pal ... Appellant

Versus

Des Raj Singh alias Sonu & ors. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Amrinder Singh Sidhu, Advocate,
for the appellant in FAO No.8684 of 2014 and
for respondents No.4-Insurance Company
in FAO No.5054 of 2015.

Mr. Sanjay Kumar Dhiman, Advocate,
for the appellant in FAO No.5054 of 2015 and
for respondents No.1 to 4 in FAO No.8684 of 2014.

RAMENDRA JAIN, J.(Oral)

CM-15650-15651-CII-2015 in
FAO No.5054 of 2015

For the reasons mentioned in the applications, which are supported by affidavits, the same are allowed. Delay of 120 days in filing and 68 days in refiling the appeal is condoned.

Main appeals

Above titled two appeals are being disposed of by this common

judgment viz: one filed by the claimants for enhancement of compensation, modifying impugned award dated 04.07.2014 of the Motor Accident claims Tribunal, Panchkula (in short 'the Tribunal') and other by Insurance company for reduction of the same. The facts are taken from FAO No.8684 of 2014.

In nutshell, on 12.01.2012, an unmarried boy Bunty, aged 22 years, barber by profession, died in a motor vehicular accident caused by respondent No.5 while driving Maruti Car bearing Registration No.PB-11D-0044, owned by respondent No.6 and insured with the appellant.

The parents, brother and sister of the deceased Bunty filed claim petition under Section 166 of the Motor Vehicle Act, 1988 (for short 'the Act') for award of compensation to them on account of his death.

Learned Tribunal, after holding trial, vide impugned award, awarded compensation of ₹6,11,000/- to the appellant-claimant holding joint and several liability of the appellant-Insurance Company along with respondents No.5 and 6.

Learned counsel for the appellant-Insurance Company *inter alia* contends that false FIR (Ex. P1) was registered after 5 days of the accident, with due deliberations, concocting a false story, in connivance with respondents No.5 and 6 to extract compensation in an illegal manner showing the involvement of Maruti Car bearing Registration No.PB-11A-0044. Thereafter, in the claim petition also, the appellant-claimant categorically pleaded that the accident had taken place on account of rash and negligent driving of aforesaid maruti car. The same stand was taken by the appellant-claimant through out the trial before the learned Tribunal. However, to utter surprise of the appellant-Insurance Company at the fag end of the trial, the respondents-claimant moved application for change of registration number of

Maruti Car from PB-11A-0044 to PB-11D-0044, which erroneously allowed by learned Tribunal, without appreciating the fact that entire nature of the claim petition and offending vehicle was changed by seeking change of its registration number. Learned Tribunal ought to have dismissed the application for correction of registration number of the alleged offending vehicle moved by the appellant-claimant.

On the other hand, learned counsel for the appellant-claimant, vehemently opposing the submissions made by learned counsel for the appellant, pleaded the legality and validity of impugned award.

Having given anxious consideration to the submissions made by both the sides, I find that the arguments raised by learned counsel for the appellant-Insurance Company are devoid of any merit for the reasons to follow:-

Application of the appellant-claimant for change in the registration number of the offending vehicle was allowed by the learned tribunal vide order dated 09.04.2014. The appellant-Insurance Company never challenged the said order by way of appeal or revision whatsoever. Therefore, the same attained finality before passing of the impugned award and thus, the appellant-Insurance Company cannot be permitted to challenge the same in this appeal.

Correction in registration number of the offending vehicle, in fact, does not amount to any change for the reason that only word 'A' was sought to be replaced by 'D'. Rest of the words and figures of the registration number of the offending vehicle are the same.

Judicial note of the fact can be taken that at the time of jotting down registration number of an offending vehicle, such type of clerical

mistake may be committed due to the reason that sometimes, its number plate is not so clean, as one can easily read registration number or may be due to over sight. Therefore, noting down a wrong numeric may happen in routine.

No doubt can be raised on the appellant-claimant on account of change of single numerical in the registration number of the offending vehicle, more particularly, when description of the vehicle is same i.e. "maruti car of white colour".

In view of discussion made above, FAO No.8684 of 2014 filed by the appellant-Insurance Company has no merit and is dismissed.

Both the parties are *ad idem* to the effect that FAO No.5054 of 2015 has to be decided according to principles laid down in National Insurance Company Ltd. Vs. Pranay Sethi & ors., 2017(4) RCR (Civil) 1009.

As per calculations mark 'A' furnished by learned counsel for the appellant-claimant, in accordance with judgment aforesaid, net amount payable to the appellants-claimant comes to ₹1,51,888/- over and above the compensation already awarded to him by the learned Tribunal vide impugned award.

Learned counsel for respondent No.4-Insurance Company has not been able to controvert or point out any error in the above calculations Mark 'A'.

In view of discussion made above, this appeal stands disposed of with direction to respondent No.4-Insurance Company to deposit the enhanced compensation of ₹1,51,888/- before the learned Tribunal within two months from today along with upto-date interest @ 7.5% per annum from the date of institution of the claim petition till realization for onward disbursement to the appellant-claimant, in accordance with law, against

proper receipt and identification.

29.05.2018
monika

(RAMENDRA JAIN)
JUDGE

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