

230 (1/10)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. FAO No.2096 of 2017 (O&M)
Date of Decision: 21.11.2018

Ajit Singh and another
Versus
Darshan Singh and others

Appellants
Respondents

2. FAO No.2097 of 2017 (O&M)

Ajit Singh and another
Versus
Gurcharan Singh and others

Appellants
Respondents

3. FAO No.2098 of 2017 (O&M)

Ajit Singh and another
Versus
Amarjit Kaur and others

Appellants
Respondents

4. FAO No.2099 of 2017 (O&M)

Ajit Singh and another
Versus
Joginder Singh and others

Appellants
Respondents

5. FAO No.2100 of 2017

Ajit Singh and another
Versus
Buta Singh and others

Appellants
Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Aayush Gupta, Advocate
for the appellants.

Mr. Sanjeev Kodan, Advocate
for Reliance General Insurance Co. Ltd.

Mr. Vinod Gupta, Advocate
for United India Insurance Co. Ltd.

Mr. Pradeep Kumar, Advocate
for HDFC ERGO General Insurance Co. Ltd.

Mr. Sachin Ohri, Advocate
for M/s Bajaj Allianz General Insurance Co. Ltd.

AVNEESH JHINGAN, J (Oral):

These are five appeals against award dated 24.11.2015 passed by the Motor Accident Claims Tribunal, Moga [for brevity 'the Tribunal'].

The brief facts of the case are that on the fateful day of 06.05.2012, Paramjit Kaur, Virpal Kaur, Balwinder Kaur @ Parwinder Kaur, Kulwinder Kaur and Harpal Kaur lost their lives in a motor vehicular accident while they were going to Ludhiana by Jeep bearing registration No. PB-29B-0726 (hereinafter referred to as 'Jeep'). The said Jeep was driven by Karnail Singh. When the Jeep reached near village Dhatt, on Moga-Ludhiana Road, the said Jeep was hit by a Scorpio (black colour) bearing registration No. PB-13N-0073. Thereafter, another Scorpio (white colour) bearing registration No. PB-05K-4777 further hit the said Jeep. Then a Innova Car bearing registration No. PB-11AH-6565 (hereinafter referred to as

'Innova car') (though wrongly mentioned in the award as PB-11AN-6565 in para No.2) further hit the said jeep. As a result of the accident, all the aforementioned five occupants of Jeep suffered grievous injuries and lost their lives. Five claim petitions under Section 163-A of the Motor Vehicles Act, 1988 [for brevity 'the Act'] were filed. The Tribunal awarded compensation in accordance with the II Schedule of the Act. Equal liability qua all the four vehicles involved in the accident was attributed.

The present five appeals have been filed by owner and driver of the Innova car. Since there are common facts and the appeals arise from the same award, hence, these are being dealt with by a single order.

The only grievance raised in the appeals is that Innova car was duly insured with HDFC Ergo General Insurance Company Ltd. The cover note No. 002301203897 was duly exhibited before the Tribunal as Ex.R-5, but the Tribunal erred in holding that the cover note was valid only upto 31.03.2012. The cover note has been annexed with the appeals as Annexure A-1 for ready reference. From the perusal of the cover note, it is evident that the said cover note was effective from 29.01.2012 to 28.01.2013.

On issuance of notice of motion, learned counsel for the insurer of Innova car verified the cover note and very candidly submitted that the said insurance cover of the Innova car was there at the time of accident. He, further, stated that Insurance Company had also issued Insurance Policy bearing No. 2311 2000 5984 4201

001 in pursuance to that cover note.

In the facts and circumstances of the case, the award dated 24.11.2015 of the Tribunal holding that only owner and driver of Innova Car are liable to pay the compensation cannot be sustained.

The award dated 24.11.2015 is modified to the extent that the onwer, driver and insurer of the Innova car shall be jointly and severally liable to pay the compensation, to that extent as was held by the Tribunal.

[AVNEESH JHINGAN]
JUDGE

November 21, 2018

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |