

229

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

**FAO No.2139 of 2017
Date of Decision: 12.11.2018**

Mahesh Adhlakha and others

Appellants

Versus

Shokeen and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Sharma, Advocate
for the appellants.

Mr. H.S. Dhanda, Advocate
for respondent No.2.

Mr. Ashwani Talwar, Advocate
for respondent No.4.

AVNEESH JHINGAN, J (Oral):

The present appeal is against award dated 01.08.2016 passed by Motor Accident Claims Tribunal, Panipat (for brevity 'the Tribunal')

2. Legal heirs of Ishan Adhlakha are in appeal being aggrieved of dismissal of their claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act').

3. The brief facts are that a motor vehicular accident occurred on 08.03.2014. The vehicles involved are Honda City Car bearing registration No. HR-06P-1888 and Truck bearing registration No. HR-55N-8252 (hereinafter referred to as 'truck'). As a result of

accident, Ishan Adhlakha lost his life and other occupants of Honda City Car suffered injuries. FIR No.46, dated 8.03.2014 was registered at Police Station, Yamunanagar Sadar.

4. The Tribunal dismissed the claim petition on the ground that the claimants had failed to prove that accident occurred due to rash and negligent driving of the truck.

5. Heard learned counsel for the parties, perused the paper book and relevant documents produced on record.

6. Learned counsel for the appellants relied upon the award passed by Motor Accident Claims Tribunal, Yamunanagar at Jagadhri in MACT case No. MACP/81 of 2014, dated 10.01.2017, whereby insurer of the truck had compromised the matter. He argued that the Tribunal at Yamunanagar awarded compensation to the persons who were injured in the same accident, whereas claim petition of appellant has been dismissed on the ground that claimants failed to prove rash and negligent driving of the Truck.

7. Learned counsel for the Insurance Company stated that the claimants failed to discharge the onus of proving rash and negligent driving of Truck.

8. In view of the award dated 10.01.2017, the impugned award dated 01.08.2016 passed by the Tribunal at Panipat cannot be sustained as it results in contradictory findings.

9. Without expressing any opinion on the merits of the case, the impugned award is set aside, the matter is remanded back to the Tribunal to decide the claim petition afresh after providing

opportunity to the parties to adduce evidence in support of their claims.

10. Parties are directed to appear before the Tribunal on 17.12.2018.

11. The appeal is disposed of, accordingly.

[AVNEESH JHINGAN]
JUDGE

November 12, 2018

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