

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

**FAO-3142-2017 (O&M)
Date of Decision: 03.07.2018**

Urmila Gupta

... Appellant

Versus

Sukhwinder Singh @ Sukha & another

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. S.K. Bokolia, Advocate for the appellant.

...

TEJINDER SINGH DHINDSA, J. (ORAL)

Appellant preferred a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of Rs.5 lakhs on account of damage caused to her Indica car bearing registration No.PB-04-M-8668 in a road side accident that occurred on 25.11.2012.

2. Instant appeal has been filed impugning the order dated 13.01.2017 passed by the Motor Accident Claims Tribunal, Faridkot confined to the extent and quantum of compensation awarded in favour of the appellant i.e. Rs.1 lakh towards damage caused to the vehicle in question.

3. Counsel for the appellant has been heard at length and pleadings on record have been perused.

4. It would be apposite to notice that the following issues were framed by the Motor Accident Claims Tribunal towards adjudication of the claim petition preferred by the appellant under Section 166 of the Motor

Vehicles Act:

- “1. Whether damage has been caused to Indica car bearing No. PB-04-M-8668 in a motor vehicular accident, which took place on 25.11.2012 on account of rash and negligent driving of the Scorpio bearing registration No. HR-29-M-5282, being driven by respondent No.1 Jaswinder Singh alias Sukha? OPA*
- 2. If issue No.1 is proved, whether the claimant is entitled to seek compensation from the respondents, if so to what extent and from which of the respondents? OPA*
- 3. Whether respondent No.1 Jaswinder Singh was not holding valid and effective driving license at the time of accident? OPR*
- 4. Whether Roop Singh alleged driver of car No.PB-04M-8668 was not holding valid and effective driving license at the time of accident? OPR*
- 5. Whether the Scorpio vehicle No. HR-29M-5282 was not holding a valid registration certificate, fitness certificate and route permit at the time of accident? OPR*
- 6. Whether the claim petition is not maintainable? OPR*
- 7. Relief.”*

5. Finding was returned by the Tribunal in relation to issue No.1 and it was held that the accident had taken place due to rash and negligent driving of Scorpio vehicle bearing registration No.HR-29-M-5282 by respondent No.1/Sukhwinder Singh and which has resulted in damage to the car of the claimant (appellant herein) bearing registration No. PB-04-M-8668.

6. Insofar as grant of compensation on account of damage caused to Indica car, heavy reliance by the claimant (appellant herein) was placed upon report (Ex.P-2) submitted by the surveyor, namely, Balraj Singh Brar.

7. Counsel representing the appellant is not in a position to rebut the observations contained in the impugned order and to the extent that even

though market value of the car had been mentioned in the report of the surveyor (Ex. P-2) to be Rs.2,25,000/- but the surveyor had not assessed the value of the car, value of the scrap as also value of damaged parts of the car. In the absence of any other conclusive material, the Motor Accident Claims Tribunal has observed that the extent of actual damage caused to the car cannot be ascertained. The Tribunal has proceeded to grant lump sum compensation to the tune of Rs.1 lakh.

8. During the course of hearing, counsel for the appellant has made available for perusal of this Court copy of the surveyor's report dated 13.01.2013 (Ex.P-2) and which would indicate the damage car to be a Tata Indica, Model 2009. The accident in question is stated to have taken place on 25.11.2012.

9. In view of the peculiar facts and circumstances of the case, the award of lump sum compensation to the tune of Rs.1 lakh in favour of the appellant by the Motor Accident Claims Tribunal on account of damage caused to the Tata Indica car bearing registration No.PB-04-M-8668 cannot be termed to be inadequate so as to warrant interference by this Court.

10. Appeal is, accordingly, dismissed.

03.07.2018

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |