

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1340 of 2018

Date of Decision: 27.03.2018

Reliance General Insurance CompanyAppellant

V/S

Pokar and AnrRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Sanjeev Kodan, Advocate,
for the appellant.

RITU BAHRI, J.(Oral)

This appeal has been filed by the appellant against the Award passed by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') dated 29.01.2018, whereby claim petition filed by claimants-respondents under Section 166 of Motor Vehicle Act, 1988, on account of injuries sustained by the claimant Pokar in an accident dated 27.05.2015, has been allowed.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 27.05.2015, Nanda alongwith Pokar and others after attending marriage of a relative were coming in Bolero No. HR-61A-6551 being driven by Sandeep, respondent No.1. At about 5.30 p.m.,claimant reached on turn ahead of a hill in the area of village Nigana District Bhiwani. Meanwhile 'Neel Gai' came on road, respondent No. 1 in order to save 'Neel Gai' hit the vehicle into Kikar tree. Resultantly, all the occupants sustained multiple grievous injuries. After the accident claimant was taken to Navjeevan Multispeciality Hospital, 255, Model Town, Hisar. Claimant remained admitted in hospital from 27.05.2015 to 31.05.2015.

Consequently, claimant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of negligent driving of offending vehicle by driver. Claimant-Pokar deposed that at the time of accident, he was 22 years of age at and he used to earn Rs.18,000/- per month by doing milk diary and agricultural work.

This finding was rightly given on the basis documentary evidence as well as oral evidence led by the parties. As per the prevalent law at that time, Tribunal awarded total amount of Compensation at Rs.1,25,000/- to the claimant-Pokar.

The present appeal has been filed by the insurance company on the ground that after registration of the DDR, no FIR was registered and hence the claim petition under Section 166 of the Motor Vehicles Act, 1988 is not maintainable. Since the accident took place when a neel gai suddenly came in front of Bolero Jeep and no one was negligent in causing the accident.

I have heard learned counsel for the parties and perused the record.

A perusal of the record shows that, the above said plea was never taken by the insurance company before the Tribunal. While giving findings upon issue No.1, Tribunal had referred the judgment passed by Co-ordinate Bench of this court in case of **Harmesh Kumar @ Ramesh Kumar Versus Inderjit Singh and Others 2014(3) RCR (Civil) 408,** wherein an accident took place when a stray cattle crossed the road and claim petition under 166 of Motor Vehicles Act had been dismissed by the Tribunal. While the first appeal, the Award of the Tribunal was set aside and the matter was

remanded back to the Tribunal for fresh consideration and directions were issued for passing an appropriate order on merits on the issue regarding apportionment of negligence between the driver of both the vehicles as there was a duty cast on the Tribunal to elicit the truth and provide for compensation wherever death or injury results by the use of the motor vehicle. It was further observed that a driver or passenger could not say that an animal was negligent for it is illogical and does not come within the realm of logical reasoning. The reasoning is that any person that drives must factor his own driving skills and not look for excuses of how another agency that is not human has created a situation that had diminished his own driving skills. However, the driver at best stated that they were tectful to avoid hitting a cattle and still save themselves from the situation of a collusion. Negligence cannot be attributed to any person other than a human agency.

In the present case, Tribunal has rightly entertained the claim petition filed under Section 166 of the Motor Vehicles Act as per the judgment in the case of **Harmesh Kumar Versus Inderjit Singh (Supra)**, and rightly allowed the claim petition after granting the compensation of Rs.1,25,000/- to the claimant on account of injuries suffered by him in the accident.

Hence, the impugned Award, the orders of the learned Tribunal does not reflect any material irregularity or perversity, warranting interference of this Court. Hence the present appeal stands dismissed.

27.03.2018

Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No