

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 2505 of 2018(O&M)

Date of Decision: 8.5.2018

IFFKO TOKIO General Insurance Company Limited

---Appellant

versus

Sudesh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Ashwani Talwar, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against award dated 7.3.2018 whereby compensation has been awarded on account of death of Sompal in a motor vehicular accident that took place on 15.10.2016.

Counsel for the appellant-insurance company would inform that appeal has been filed to challenge findings of the Motor Accidents Claims Tribunal, Patiala (in short “the Tribunal”) on issue No. 1 “whether Sompal died in an accident caused by respondent No. 1 due to rash and negligent driving of offending car?OPP”.

It is argued that with regard to occurrence dated 15.10.2016, FIR was lodged at the behest of Surinder Singh, driver of three wheeler in which the deceased was travelling immediately before the occurrence on 15.10.2016 but the FIR was lodged against unknown vehicle and unknown driver. Prem Chand, the alleged eye witness to the occurrence purportedly

recorded statement under Section 161 of the Code of Criminal Procedure on 20.10.2016 but the offending vehicle was surrendered by its owner on 20.11.2016 and the car was released on superdari on 23.11.2016. It is argued with vehemence that a case of hit and run has been converted into a case involving the offending maruti car, therefore, findings of the Tribunal on issue No. 1 are erroneous and cannot be allowed to sustain. It is further argued that had it been true that Prem Chand had taken lift in the offending car and seen the occurrence, there was no reason for him to wait till 20.10.2016 to nominate the vehicle and driver who caused the accident. The last submission made by counsel is that story brought forth by Prem Chand is an afterthought and result of concoction, therefore, testimony of Prem Chand cannot form the basis for upholding plea of the claimants.

I have heard counsel for the appellant, perused the paper book particularly testimony of Prem Chand, reproduced in the grounds of appeal.

A perusal of lengthy cross examination to which the witness was subject to at the behest of counsel for the insurance company before the Tribunal would reveal that nothing material and tangible has been brought forth to discard and disbelieve testimony of Prem Chand to be an eye witness to the occurrence and the accident being the result of rash and negligent driving of offending vehicle by its driver.

Counsel for the appellant, in response to a query, would fairly inform that on due investigation of the FIR registered at the behest of driver of the three wheeler, Naveen driver of the offending vehicle has been charge sheeted and criminal trial is pending in the court. In the given scenario, I do not find any reason to interfere in the well founded findings recorded by the Tribunal determining issue No. 1 in favour of the claimants

and against the respondents.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly
dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

8.5.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No