

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

FAO No.2698 of 2018 (O&M)

Date of decision: 16.05.2018

National Insurance Company Ltd.

....Appellant

Versus

Krishna and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gopal Mittal, Advocate,
for the appellant-Insurance Company.

RITU BAHRI J. (Oral)

National Insurance Company Ltd.-appellant has filed this appeal against the award dated 15.02.2018 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal') whereby compensation of Rs.9,37,200/- has been awarded in favour of the claimants-respondent Nos. 1 & 2 on account of death of Ravi Kumar in a motor vehicular accident which took place on 08.05.2016. Respondent Nos. 1 & 2 are parents, respondent No.3 is sister & 4 is brother of deceased-Ravi Kumar. Deceased was 24 years of age at the time of death/accident and was a bachelor.

Insurance Company-appellant is challenging the impugned award on the ground that Phool Chand (PW-2), eye witness of the accident, was an illiterate person. He has given the registration number of the vehicle and name of the driver of offending vehicle namely Harminder Singh to ASI Shamsher Singh and thereafter, FIR Ex.P4 was got registered. When this witness appeared as PW-2, he could not read the words "154 Cr.P.C." Thereafter, he even could not read the affidavit given in his statement.

Learned counsel for the appellant contended that if, this witness was

illiterate, he would not be in a position to give the correct number of vehicle as well.

Heard, counsel for the appellant.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident.

The Tribunal has examined the deposition of Phool Chand (PW-2) in detail. It has been observed that during cross-examination, he had stated that the driver of the offending car had stopped the car after the accident and at that stage, the witness had every occasion to note down the number of car. PW-2 has further stated, in his cross-examination, that the car was a costly vehicle. Keeping in view that the FIR was registered promptly on the same day of the accident i.e. 08.05.2016, version of this witness was not held to be doubtful.

A perusal of the impugned award shows that after registration of the FIR Ex.P4, challan Ex.P2 (report under Section 173 Cr.P.C.) was presented against Harminder Singh @ Harvinder, who was driver of the offending vehicle. The owner of this vehicle was M/s Amber Enterprises Pvt. Ltd. (respondent No.6). Had it been a case of false implication, the said company would have immediately taken steps for false implication of the case. However, nothing of this sort was done. Moreover, charges against driver-respondent No.5 (respondent No.1 in claim petition) were also framed under Sections 279/304-A IPC. Hence, finding given by the Tribunal that it could not be a case of false implication of the vehicle of respondent No.6-company (respondent No.2 in claim petition). The Tribunal has further observed that there was no long standing enmity between the claimant and driver-Harminder Singh. Moreover, Harminder

Singh-driver had appeared in the witness box as RW-1 and admitted that he was facing a criminal trial in the Court at Bilaspur. He had stated that he had gone to the office of Superintendent of Police and made an oral request. However, no application was made by him with regard to his false implication. The defence taken by owner and driver (respondent Nos.1 and 2 in claim petition) was that the driver had parked the car near petrol pump, Sadhura as it had developed a fault and had gone to call a motor mechanic without locking the car. The Police came in his absence, searched out the documents lying in dash board of car and wrongly implicated the car along with Harminder Singh-driver. However, while appearing as RW-1, Harminder Singh did not state anything with regard to the fault of the car or calling of the mechanic. Keeping in view the above facts, the testimony of Phool Chand (PW-2), eye witness, has been rightly accepted by the Tribunal. Since the driver was facing a criminal trial, the finding that the offending vehicle was being driven by Harminder Singh-respondent No.5 (respondent No.1 in claim petition) in a rash and negligent manner, does not require any interference.

After going through the impugned award, this Court is of the view that the claim petition has been rightly accepted by the Tribunal. The compensation has also been rightly calculated after appreciating the evidence in the right perspective. No ground is made out to interfere therein.

Resultantly, finding no merits, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

16.05.2018
ajp