

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

Date of decision: 22.11.2018

1.

FAO No. 632 of 2017(O&M)

New India Assurance Co. Ltd.

.....Appellant

VERSUS

Gurwinder Singh and another

.....Respondents

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

Mr. Surinder Garg, Advocate for respondent No.1.

Mr. Harinder Sharma, Advocate for respondent No.2.

2.

FAO No. 2066 of 2017(O&M)

Gurwinder Singh

.....Appellant

VERSUS

Harnek Singh and another

.....Respondents

Present: Mr. Surinder Garg, Advocate for the appellant.

Mr. Harinder Sharma, Advocate for respondent No.1.

Mr. Ashwani Talwar, Advocate for respondent No.2.

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

REKHA MITTAL, J.

This order will dispose of FAO Nos.632 and 2066 of 2017 as these have emerged out of the same award dated 29.07.2016 passed by the Motor Accidents Claims Tribunal, Faridkot (in short 'the Tribunal')

whereby compensation has been awarded on account of injuries sustained by Gurwinder Singh (minor) in a motor vehicular accident that took place on 07.09.2015.

FAO No.632 of 2017 has been filed by the New India Assurance Co. Ltd. (hereinafter to be referred as the 'insurance company') whereas the other appeal has been filed by the claimant seeking enhancement of compensation.

FAO No.632 of 2017

Counsel for the appellant would inform that the appeal has been preferred to challenge liability of the insurance company to pay compensation as well as quantum of compensation assessed by the Tribunal. The plea of the insurance company with regard to quantum of compensation would be considered while disposing of FAO No.2066 of 2017 filed by the claimant.

With regard to insurance company being not liable to pay compensation, the sole submission made by counsel for the appellant is that insurance policy was issued on 29.05.2015 and accident occurred on 07.09.2015 but registration certificate was issued on 11.09.2015. It is argued that the temporary registration, if any, issued at the time of purchase of car would not be valid on 07.09.2015 as temporary registration is valid only for a period of one month but the insurance company has wrongly been fastened with liability to pay compensation.

The controversy raised in the present appeal is squarely covered against the appellant by judgment of this Court **Oriental Insurance Co. Ltd. Vs. Paramjeet Kaur and others, FAO No.6296 of**

2015 decided on 23.05.2018 wherein Oriental Insurance Co. Ltd. was being represented by the same Advocate who has been representing the appellant-insurance company in the present case. This apart, it is not plea of the insurance company that the insured is guilty of making misrepresentation at the time of obtaining policy on 29.05.2015. That being so, no error much less perversity can be noticed in findings of the Tribunal holding the insurance company jointly and severally liable to pay compensation to the injured-claimant.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs.

FAO No.2066 of 2017

The Tribunal has awarded compensation of Rs.4,98,782/- (rounded off to Rs.4,99,000/-) detailed in para 16 of the award, extracted hereinbelow:-

(i)	Medical bills/receipts	: Rs.2,23,782-00
(ii)	Mental pain & suffering	: Rs.50,000-00
(iii)	Special diet, attendant charges and other expenses:	: Rs.50,000-00
(iv)	Expenses incurred during Hospitalization including operations charges etc.	: Rs.1,25,000-00
(v)	Loss of study and income during the period of hospitalization and some time thereafter.	: Rs.50,000-00
	Total	: Rs.04,98,782-00

Counsel for the claimant is not in a position to justify increase in compensation over and above what has been allowed by the Tribunal. However, counsel for the insurance company has submitted that claimant has been allowed reimbursement of medical expenses to the tune of Rs.2,23,782/- on the basis of medical bills/receipts. Another sum of Rs.1,25,000/- has been allowed qua expenses incurred during hospitalization including operation charges etc. It is argued that amount of Rs.1,25,000/- is also included in the sum of Rs.2,23,782/-, therefore, compensation is liable to be reduced to the tune of Rs.1,25,000/-. Perusal of the records would reveal that the sum of Rs.1,25,000/- has been allowed under separate head and not included in the sum of Rs.2,23,782/-, as such no such deduction is to be made.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

NOVEMBER 22, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no