

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 18.1.2018

FAO No. 7186 of 2017(O&M)

United India Insurance company Limited

---Appellant

versus

Nirmal Kaur and others

---Respondents

FAO No. 7188 of 2017(O&M)

United India Insurance company Limited

---Appellant

versus

Gurmeet Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Vinod Gupta, Advocate
for the appellant**

Rekha Mittal, J.

This order will dispose of FAO Nos. 7186 and 7188 of 2017 arising out of the same accident dated 14.9.2015 in regard whereof, compensation has been awarded with regard to death of Joga Singh and Bahal Singh @ Bal Singh. For the sake of convenience, facts are taken from FAO No. 7186 of 2017.

Counsel for the appellant, at the outset, would inform that appeal has been filed by the insurance company to assail findings of the

Motor Accidents Claims Tribunal, Amritsar (in short “the Tribunal”) on issue No. 1. To challenge findings qua issue No. 1 i.e. accident being the result of rash and negligent driving of car No. PB-01-A-4375 by Kulwinder Singh, it is argued that FIR No. 126 dated 14.9.2015 was lodged at the behest of Major Singh brother of Bahal Singh @ Bal Singh. Major Singh did not appear in the witness box to prove version of the claimants. Gurpreet Singh PW2, examined to discharge onus of issue No. 1 had deposed in his affidavit that Major Singh has passed away but death certificate of Major Singh has not been produced on record. It is argued with vehemence that Gurpreet Singh is a procured witness and his testimony is not worthy of credence and reliance, therefore, findings of the Tribunal on issue No. 1 are liable to be set aside. To bring home his contention, counsel has carried the Court through cross examination of Gurpreet Singh by counsel for the insurance company before the Tribunal. It is argued that Gurpreet Singh did not lodge the FIR nor approached the police at least for 3-4 days after the accident. He had stated that he has seen 10 accidents in his life and he had never given a statement before the police regarding those accidents, sufficient to create a doubt in his version that he had recorded a statement before the police in regard to the occurrence in question. In addition, it is argued that the alleged offending vehicle was taken into police possession on 20.5.2016, after about 8 months of the accident and challan has been presented in the Court more than one year after registration of the FIR.

I have heard counsel for the appellant, perused the paper book particularly the award and testimony of Gurpreet Singh PW2.

Gurpreet Singh tendered into evidence his duly sworn affidavit

Ex. PW2/A by way of examination-in-chief. In para 1 of the affidavit, he has narrated the occurrence being the result of rash and negligent driving of Tata Indigo bearing No. PB-01-A-4375 by the respondent when the said vehicle came from the side of Jandiala Guru and hit against the victims. The witness was cross examined at length but no such fact has been elicited that he knew the deceased or their families prior to the occurrence in question. There is nothing on record suggestive of the fact that Gurpreet Singh had any ulterior motive to come forward to depose in favour of the claimants much less being a beneficiary if the claim is accepted. The mere fact that Gurpreet Singh earlier had seen some accidents and did not report the matter to the police is not sufficient to discard or disbelieve his testimony. Counsel for the appellant has not pointed out any materials on record that the vehicle in question has been planted as a result of collusion between the claimants and owner-cum-driver of the vehicle in question. Proceedings before the Tribunal are summary in nature and require to be decided on the basis of balance of probabilities. The insurance company did not adduce any evidence to counter testimony of Gurpreet Singh that author of the FIR Major Singh has passed away. It is admitted position of the case that on due investigation of the FIR registered at the behest of Major Singh, police has presented the challan for trial of Kulwinder Singh for causing the accident constituting offence under Sections 279 and 304-A of the Indian Penal Code. Under the circumstances, contention raised by counsel for the appellant that findings of the Tribunal on issue No. 1 are erroneous or warrant intervention is not meritorious and liable to be rejected.

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly

dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

18.1.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No