

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

FAO No.8099 of 2017 (O&M)
Date of decision : 08.02.2018

National Insurance Company Ltd.

...Appellant

Versus

Anju and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Neeraj Khanna, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Insurance Company is in the appeal against the award passed by the Motor Accident Claims Tribunal, Kurukshetra.

Learned Motor Accident Claims Tribunal, Kurukshetra, after returning a finding that the offending vehicle i.e. the truck was parked on the road without switching on the parking indicator or putting any signs about the parking of the truck on the road, held the Insurance Company to be liable.

Learned counsel for the appellant-Insurance Company has vehemently argued that since the deceased who was driving other vehicle had hit a stationary vehicle, therefore, the Tribunal should have at least held that deceased was contributory negligent. He submits that the vehicle which hits the parked vehicle has to be negligent to some extent.

I have considered the submission. It is not in dispute that the

accident took place at 11:15 PM. The finding of the Tribunal is that the truck was parked in the middle of the road. It is the duty of the driver of the vehicle parked in the middle of the road at night to either switch on parking indicators of the truck or some sign is displayed so that the vehicles travelling on the road have some indication. At 11:15 PM, it must be pitch dark. The vehicles were coming from both the directions. In such a situation, the Tribunal, on appreciation of the evidence has found rash and negligent act was solely on account of the fault of the offending vehicle-stationary vehicle.

Next argument of the learned counsel for the appellant is that the Motor Accident Claims Tribunal has awarded a sum of ₹18,77,500/-. A young man of 37 years of age has left behind a widow, two minor children and a widowed mother. His income has been assessed as ₹9,000/- per annum. Since, he was driving the vehicle, therefore, he was a skilled labour. Rather, the Tribunal has found that he was a food and vegetable vendor going to the city sell his produce.

In view thereof, there is no scope for interference in the appeal.

Appeal is dismissed.

08.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No