

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

**FAO No.606 of 2018 (O&M)
Date of Decision: April 04, 2018.**

IFFCO Tokio General Insurance Company

.....APPELLANT(s).

VERSUS

Dyalo and another

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vishal Aggarwal, Advocate
for the appellant (s).

SURINDER GUPTA, J.

This is appeal by IFFCO Tokio General Insurance Company against the award dated 27.11.2017 passed by Motor Accident Claims Tribunal, Kurukshetra (later referred to as 'the tribunal') allowing compensation to the claimant-respondent No.1 on account of injuries sustained by her in a motor vehicle accident on 20.01.2015 due to rash and negligent driving of TATA-Sumo bearing Registration No.HR65-2554 (later referred to as 'the offending vehicle').

Learned counsel for the appellant has challenged the award on two counts; firstly, that the offending vehicle, which was insured for private purposes, was being used for commercial purposes. Though the tribunal has allowed recovery rights to the insurer-appellant on this score but instead of allowing the recovery rights, the insurer should have been exempted from paying the amount of compensation to the claimants at the first instance.

In support of this contention, learned counsel for the appellant

could not cite any law contrary to the law as relied upon by the tribunal

while awarding the recovery rights to the appellant as contained in ***New India Assurance Company Limited Vs. Dayal Singh & Others 2011 (1) RCR (Civil) 339***. The offending vehicle was insured with the appellant and being the insurer, it was first liable to pay the amount of compensation to the claimant and for the breach of terms of the insurance policy, the tribunal awarded recovery rights to the insurer. The submission of learned counsel for the appellant to this effect is without merit and as such, is discarded.

Second contention of learned counsel for the appellant is that the claimant-respondent No.1 had suffered 6% permanent disability and for this disability, the tribunal has awarded compensation of ₹61,200/-, which is on higher side.

The claimant-respondent is employed as helper in a school. Permanent disability of 6% has been declared due to malunion radius and non-union ulnar styloid. This shows that the claimant will be suffering throughout her life due to this disability and the amount of compensation awarded by the tribunal on this score, cannot be termed as on higher side.

In view of above, this contention of learned counsel for the appellant is also without any merit and is discarded.

No other point has been argued.

As a sequel of my above discussion, this appeal has no merits.

Dismissed.

Statutory amount of ₹25,000/- deposited by the appellant be sent to the executing Court for being adjusted towards the compensation amount.

April 04, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No