

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 107

Case No. : FAO No. 191 of 2019 (O&M)

Date of Decision : February 11, 2019

New India Assurance Co. Ltd. Appellant

vs.

Rajender and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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

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DEEPAK SIBAL, J. (Oral) :

New India Assurance Co. Ltd. has preferred the instant appeal to challenge therein Award dated 12.03.2018 passed by the Motor Accident Claims Tribunal, Sonipat (for short – the Tribunal).

The facts, in brief, which would be required to be noticed for adjudicating upon the present appeal, are that on 18.03.2017, at about 08:30 PM, near bus stand of Village Khanpur Khurd, Sonipat, a car bearing registration no. HR-69-C-3859 (for short – the offending vehicle) hit a motorcycle bearing registration no. HR-10J-2515 resulting in the death of the driver of the aforesaid motorcycle - Nitish.

The claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short – the Act) seeking therein compensation on account of Nitish's death having been caused due to rash and negligent driving of the offending vehicle by respondent no. 8.

After concluding that Nitish had died in the accident which had

been caused due to rash and negligent driving of respondent no. 8, the

Tribunal went on to assess the payable compensation. Finding no violation of any provision of the Act or the conditions of the insurance policy of the offending vehicle, the Tribunal directed that the assessed compensation shall be payable by the Insurance Company jointly and severally with the driver and owner of the offending vehicle.

Learned counsel for the appellant – Insurance Company submits that there was no evidence that the offending vehicle was involved in the accident in question leading to Nitish's death; the testimony of Pardeep @ Sonu (PW-4), who had been produced by the claimants as an eye-witness, was unreliable since he had been surfaced for the first time after 29 days of the accident and that FIR No.51 dated 19.03.2017 which had been lodged by Nisha (PW-3), sister of the deceased, was against an unknown vehicle and driver.

Learned counsel for the appellant has been heard.

Pardeep @ Sonu, while appearing before the Tribunal, deposed that on 18.03.2017, he was going on a motorcycle and at about 08:30 PM, when he reached near the bus stand of Village Khanpur Khurd, Sonipat, he witnessed an accident in which a young boy, who was going in front of him, was struck by a white-coloured car coming from the opposite direction on the wrong side of the road. The driver of the offending vehicle stopped his car for a while but when he found that the young boy on the motorcycle had received serious injuries, he fled from the spot along with his car. Though he noted down the registration number of the offending vehicle, he left the spot since at that time, he was in a hurry. Later, when he came to know that the young boy had passed away, he immediately went to the police and

disclosed the factum and manner of the accident that he had witnessed. Pardeep @ Sonu was subjected to cross-examination which could not extract anything from him which would support the appellant's case.

The above version was also given by Pardeep @ Sonu to the police and the same, after investigation, was also found to be true resulting in the filing of a report under Section 173 Cr.P.C. against the driver of the offending vehicle. Such report was proved by the claimants before the Tribunal through the testimony of Head Constable Sunil Kumar (PW-1), who was the Investigating Officer of the case. His cross-examination also brought out nothing which would doubt the veracity of his deposition.

Rajnish Ranjan (PW-2), who was an official of the Court, was also produced by the claimants to prove the record of the aforesaid FIR No. 51 dated 19.03.2017.

In view of the above, no interference is warranted in the factual findings returned by the Tribunal which were to the effect that Nitish had died due to the accident caused by rash and negligent driving of the offending vehicle by respondent no. 8, especially when such facts were duly proved through the testimonies of Pardeep @ Sonu (PW-4), Head Constable Sunil Kumar (PW-1) and Rajnish Ranjan (PW-2), all of whom were independent witnesses against whom motive has not even been alleged.

Dismissed.

(DEEPAK SIBAL)
JUDGE

February 11, 2019

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<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>

