

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

428

FAO No.556 of 2003

Date of Decision : 23.01.2019

KANTA DEVI AND ANOTHER**....APPELLANTS****V/S****KARAMJIT SINGH AND OTHERS****....RESPONDENTS****CORAM : HON'BLE MR. JUSTICE B.S. WALIA**

Present: Mr. Munish Gupta, Advocate for the appellants.

Mr. Abhishek Goyal, Advocate for
Mr. Pardeep Goel, Advocate for respondent No.2-A.

Mr. Suvir Dewan, Advocate for respondent No.3.

B.S. WALIA, J. (ORAL)

[1] Learned counsel for the appellants contends that initially the number of the offending vehicle i.e. Tata Canter had wrongly been given as PB-13F-9627 instead of PB-13F-9629, but the name of the owner and driver of the offending vehicle had correctly been given.

[2] Learned counsel contends that not only did the owner and driver not oppose the application for amendment, so as to bring the correct number of the offending vehicle on record i.e. PB-13F-9629 but in the written statement to the claim petition, the owner and driver of vehicle No.PB-13F-9629 did not deny the accident and took up the stand that the accident had occurred on account of the deceased being intoxicated and having caused the accident due to of his own negligence.

[3] Learned counsel states that in the circumstances, the application for amendment was wrongly dismissed. Consequently, the order dismissing the

application for amendment of claim petition as also the dismissal of the claim petition was liable to be set aside and the matter remanded to the learned MACT, Patiala, to consider and decide the matter afresh after giving the appellant opportunity to lead evidence in respect of the claim.

[4] Learned counsel for the respondent-Insurance Company states that he has no objection to the remand of the matter to enable the appellant to lead evidence to prove the negligence of the driver of vehicle No.PB-13F-9629.

[5] In the light of the position as noted above, order dismissing the application for amendment of claim petition as also dismissal of the claim petition are set aside and the matter remanded to the learned Tribunal. The appellants are permitted to make the amendment, so as to incorporate number of the offending vehicle as PB-13F-9629 instead of PB-13F-9627. The appellants would be at liberty to lead evidence in support of their claim, while the respondents would have a corresponding right to rebut the evidence led by the appellants. Parties through counsel are directed to appear before the learned Tribunal on **15.02.2019**. Record as is available before this Court be transmitted to the learned MACT, Patiala well before the next date. Parties are also directed to place record as is available with them before the learned Tribunal in order to enable it to effectively adjudicate the matter.

[6] Appeal is **disposed of** in above terms.

(B.S. WALIA)
JUDGE

January 23, 2019

'rajneesh'

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No