

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

F.A.O No. 1444 of 1991

Date of decision:- 05.11.2019

National Insurance Co. Ltd.

...Appellant

Versus

Bhagwati Devi and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Deepak Suri, Advocate with
Mr. Neeraj Khanna, Advocate
for the appellant

None for the respondents.

RITU BAHRI J. (Oral)

This appeal is by the insurance company disputing the liability foisted upon it by the Motor Accident Claims Tribunal, Faridabad (for brevity, the tribunal'), vide its award/order dated 02.08.1991 whereby the appellant-Company (for short 'the appellant') was held liable to make the compensation to the tune of Rs.04,80,000/- on account of death of Sham Sunder Pasari.

Facts not in dispute

On 06.08.1990, deceased Sham Sunder Pasari was going in a rickshaw from his residence Sector 3 Ballabgarh to his office to attend his duty. Ramesh Kumar Sharma was the driver of the rickshaw. On reaching Government School Ballabgarh, the driver of the rickshaw took a turn on the road to Chawla Colony and was near Panwala shop/mandir opposite to Government High School and then auto rickshaw bearing No. HYU-6040 which was being driven by its driver in a zig zag manner came from the side of Tigaon and hit the rickshaw. As a result of this impact, Sham Sunder

Pasari fell down on the pucca road and sustained head injury. He was being taken to Civil Hospital Ballabgarh in another rickshaw but he succumbed to his injuries on the way.

The learned Tribunal after going through the entire evidence held that the accident had occurred due to rash and negligent driving of the driver of the offending vehicle i.e Hari Singh and awarded the compensation to the claimants to the tune of Rs.04,80,000/-.

Learned counsel for the appellant has argued that in fact Ram Baboo was the driver of the auto rickshaw and since he was not having valid driving license, the claimants have given the name of Hari Singh. In the F.I.R also, the name of the driver of the auto rickshaw was mentioned as Ram Baboo.

This argument is liable to be rejected as Hari Singh himself appeared and filed written statement and he admitted that he was driving the auto rickshaw NO. HYU-6040. He was under the employment of Nem Chand and was getting a monthly salary of Rs.1200/- per month. He further stated that he tried to save the accident but rickshaw puller struck his rickshaw against his auto rickshaw.

Reference at this stage can further be made to statement of R.W.4 Nem Chand registered owner of the auto rickshaw who stated that Hari Singh was employed by him as a driver of auto rickshaw and on the day of accident, he took the auto rickshaw from his house to drive and he never kept Ram Baboo as his driver.

Further challan was also presented against Ram Baboo but the learned Tribunal has rightly held that the statements recorded under Section 162 Cr.P.C are not admissible in evidence because the same cannot be read

as substantive evidence and upon their statements it cannot be held that Ram Baboo was the driver of the auto rickshaw at the time of the accident.

In view of the above discussion, the present appeal stands dismissed.

05.11.2019

G Arora

(*RITU BAHRI*)
JUDGE

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