

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-1860-2019 (O&M)

Date of Decision: 05.07.2019

IFFCO TOKIO General Insurance Co. Ltd.

.... Appellants

Versus

Statpal Sharma and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Vishal Aggarwal, Advocate for the appellant.

RAMENDRA JAIN, J. (ORAL)

Through this appeal-Insurance company has laid challenge to the Award dated 26.10.2018 passed by the Motor Accidents Claims Tribunal, Chandigarh (for short-'the Tribunal'), on a limited point of fixing contributory negligence of respondent No. 1-Satpal Sharma along with respondent No. 2-Gurmeet Singh, who was driving the offending tractor trolley bearing registration No. HR-01-AN-5306.

In nutshell, in the night of 26.02.2017, respondent No. 1-Satpal Sharma, while driving his car bearing registration No. HR-01-AG-8695 was coming from Manali to Ambala and when reached near Tepla on Banur-Tepla Road, respondent No. 2 while driving tractor trolley bearing registration No. HR-01-AN-5306, overloaded with woods in a

rash and negligent manner and also without lights and indicators being not functional, all of a sudden took 'U' turn and struck against the car of respondent No. 1, while he was overtaking the said tractor trolley. As a result thereof, respondent No. 1 suffered multiple grievous injuries for which he filed claim petition under Section 166 of the Motor Vehicles Act, 1988. After having full fledged trial, the same was partly accepted, thereby awarding compensation to the tune of Rs.2,52,000/- along with interest @ 9% per annum fixing joint and several liability of appellant-Insurance Company and respondents No. 2 and 3.

Learned counsel for appellant-Insurance Company, contends that respondent No. 1-claimant was equally responsible for causing the accident in question. Therefore, learned Tribunal, ought to have fixed his liability too, along with appellant-Insurance Company and respondents No. 2 and 3, to make payment of compensation.

Having given thoughtful consideration to the above submissions, this Court finds the instant appeal completely devoid of any merit for the simple reason that respondent No. 1 as PW-1 categorically testified before the Tribunal that respondent No. 2 was solely responsible for causing the accident in question, while driving his tractor trolley against which appellant-Insurance Company or respondents No. 2 and 3 did not lead any contrary evidence to rebut the same. Resultantly, statement of respondent No. 1 duly corroborated by FIR No. 16 dated 27.02.2017 (Ex. P-1) Police Station Shambu, Patiala, had gone un-rebutted. Since, there was no iota of evidence before the Tribunal about

contributory negligence of respondent No. 1, therefore, this Court is not inclined to differ with the impugned Award, holding the liability of appellant and respondents No. 2 and 3, jointly and severally.

Dismissed.

July 05, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No