

FAO No.976 of 2001

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

**CM No.9302-CII of 2016 in/and
FAO No.976 of 2001 (O&M)
Date of decision: 18.01.2019**

National Insurance Co. Ltd. Chandigarh

.... Appellant

Versus

Hari Kishan & ors.

....Respondents

FAO No.977 of 2001 (O&M)

National Insurance Co. Ltd. Chandigarh

.... Appellant

Versus

Smt.Nirmla Devi & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. R.M.Suri, Advocate for the appellant-Insurance Company.

Mr. Neeraj Khanna, Advocate for the respondent-claimants.

B.S. WALIA, J (ORAL)

1. This order shall decide FAO Nos.976 and 977 of 2001 as common questions of fact and law are involved in both the appeals arising out of the same award. For brevity, the facts are being taken from FAO No.976 of 2001.

FAO No.976 of 2001

2. FAO No.976 of 2001 has been filed by the Insurance Company challenging award dated 27.07.1999 passed by the learned Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as the Tribunal) awarding compensation of ₹2,04,000/- on account of death of Saida and compensation of ₹4,61,984/- in FAO No.977 of 2001 on account of death of Dharam Pal in a motor vehicular accident on 15.05.1998.

3. Appeal has been filed, inter alia, on the ground that the claim is fraudulent as PW-4, examined as witness on behalf of the claimant was a stock witness, having appeared as witness in a number of fraudulent claims before the Motor Accidents Claims Tribunal at Ambala and surrounding areas.

4. During the pendency of the appeal, CM No.9302-CII of 2016 was moved by the Insurance Company for further cross-examination of PW-4 Sukhvinder Singh in order to expose the fraudulent nature of the claim.

5. Reply has not been filed to the aforementioned application. However, Mr. Khanna, learned counsel appearing on behalf of the respondent-claimants states that he has no objection to the prayer made in the application and that in the circumstances, the matter be remanded to the learned Tribunal, Panipat to enable further cross-examination of PW-4.

6. In the light of statement of counsel for the respondent-claimants, CM No.9302-CII of 2016 is allowed, consequently the award is set aside and matter remanded to the learned Tribunal to enable further cross examination of PW-4 to ascertain whether the evidence of PW-4 is true or false. In case it is found that the evidence of PW-4 is false then it would be open to the Tribunal to pass appropriate orders on the claim petition in accordance with law. However, in case the evidence of PW-4 is found to be true then the amount of compensation

FAO No.976 of 2001

awarded earlier would not be varied. Appropriate orders be passed by the learned Tribunal with regard to the claim made after further cross-examination of PW-4. Depending upon the orders to be passed by the learned Tribunal on the basis of further cross-examination of PW-4, any party aggrieved with the orders passed thereto would be at liberty to take action in respect thereto in accordance with law.

7. Accordingly appeals are allowed as above and the matter is remanded to the learned Tribunal in the light of the aforementioned directions.

8. Parties through counsel are directed to put in appearance before the learned Motor Accidents Claims Tribunal, Panipat on 28.02.2019 whereupon proceedings will be taken out by the learned Tribunal in accordance with law. LCR, if any available, be transmitted to the learned Tribunal well before the date fixed.

9. Both the appeals are disposed of as above.

10. Since the main appeal has been disposed of, all pending applications also stand disposed of.

January 18, 2019
ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No