

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

Date of Decision: 31.05.2019

(1)

FAO-1426-2007

Narender

.....Appellant

Versus

Wazir and others

.....Respondents

(2)

FAO-1427-2007

Sudesh and others

.....Appellants

Versus

Wazir and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present: Mr. Darshan Gulati, Advocate for
Mr. K.S.Dhanora, Advocate for the appellants.

Service of respondent No.1 dispensed with.

None for respondent No.2.

Mr. Navin Kapur, Advocate for
respondent No.3-The Oriental Insurance Co. Ltd.

Ms. Anita Kumari, Advocate for
Mr. Rose Gupta, Advocate for respondent No.4.

Mr. Suvir Dewan, Advocate for
respondent No.5-National Insurance Co. Ltd.

ARUN KUMAR TYAGI, J.

1. This order disposes of **FAO-1426-2007** titled **Narender Vs. Wazir and others** filed by injured-claimant Narender and **FAO-1427-2007** titled **Sudesh and others Vs. Wazir and others** filed by

claimants-widow, minor sons and mother of deceased-Urender respectively against common award dated 11.09.2006 passed by learned Motor Accidents Claims Tribunal, Hisar (for short 'the Tribunal') whereby **Claim Petition No.69 of 2001/2005 titled Narender Vs. Wazir and others** and **Claim Petition No.67 of 2001/2005 titled Sudesh and others Vs. Wazir and others** filed by them under Section 166 of the Motor Vehicles Act, 1988 (for short 'the M.V. Act') for award of compensation on account of injuries suffered by Narender and death of Urender due to injuries suffered by him in motor vehicle accident which took place on 15.01.2001 were dismissed.

2. Both the above-said claim petitions were filed on the common facts that on 15.01.2001, Urender, Harpal Singh, Narender, Tara Chand, Vikas and Kulbir all employees of M/s S.L. Company, Delhi Road, Hisar were going in Jeep bearing registration No.HR-20E-6501 from Modhakhera to Country made liquor vend situated in village Balsamand to collect the cash. Urender was driving the above-said jeep at a moderate speed. At about 8:30 p.m. when the jeep crossed village Burak, Jeep bearing registration No.DL-4CB-8669, owned by respondent No.2 and insured with respondent No.3, came from behind driven by respondent No.1 in a rash and negligent manner and hit the above-said Jeep while overtaking from the left side due to which the above-said Jeep of Urender fell into the ditches and dashed against the trees. Urender and other occupants received serious and grievous injuries. After causing accident, respondent No.1 sped away with the offending vehicle. Urender was got admitted in V.K. Neuro Hospital,

Model Town, Hisar where he died on 13.02.2001. Narender and Tara Chand were got admitted in Chawla Orthopaedic Hospital, Near Dabra Chowk Hisar. Initially on statement of Harpal Singh FIR No.70 dated 16.01.2001 was registered under Sections 323 and 325 read with Section 34 of the Indian Penal Code, 1860 (for short 'the I.P.C.') in Police Station Sadar Hisar against respondent No.1 but subsequently on completion of investigation respondent No.1 was charge-sheeted under Sections 279, 337, 338 and 304-A of the I.P.C.

3. In **Claim Petition No.69 of 2001/2005 titled Narender Vs. Wazir and others** the injured-claimant claiming himself to be aged about 35 years having income of more than Rs.5,000/- per month and to have suffered permanent disability due to the injuries caused in the accident sought award of compensation of ₹5 lacs against the respondents with costs and interest.

4. In **Claim Petition No.67 of 2001/2005 titled Sudesh Vs. Wazir and others** the claimants averred that Urender was aged about 30 years. He was working in M/s S.L. and Company and earning ₹7,000/- plus perks per month. Claiming themselves to be his legal heirs/representatives, the claimants sought award of compensation of ₹20 lacs against the respondents with costs and interest.

5. Injured Tara Chand filed separate claim petition under Section 166 of the M.V. Act bearing **Claim Petition No.68 of 2001/2005 titled Tara Chand Vs. Wazir and others**.

6. Notice of the petition was given to the respondents. Respondent No.1-driver of the offending vehicle suffered himself to be proceeded against ex-parte.

7. In her written statement filed in all three petitions respondent No.2 took objections as to non-maintainability, want of locus standi and cause of action, suppression of material facts and estoppel. Respondent No.2 denied the accident and pleaded that on and about 15.01.2001 respondent No.2 was the registered owner of the Jeep bearing registration No.DL-4CB-8669 and she sold it to Partap Singh s/o Balwant Singh on 01.03.2001 and received a duly attested affidavit from him. Respondent No.2 authorized Balbir Singh s/o Jai Lal r/o Kharia Tehsil and District Hisar to operate and transfer the Jeep as required by Partap Singh. She ceased to be owner after 01.03.2001. Respondent No.1 Wazir never remained a driver on her Jeep and was not known to her. The Jeep was being driven either by her husband Virender or by Satbir Singh s/o Ramji Lal r/o Mirka and was never driven by any one else. The claimants colluded with local police due to which the local police entered the number of the Jeep in question to give undue advantage to respondents No.1 and 4 and the claimants.

8. In its written statement filed in all three petitions respondent No.3 took preliminary objections regarding want of locus standi and cause of action, non-maintainability, non-joinder and mis-joinder of necessary parties, collusion between claimants and respondents No.1 and 2, respondent No.1-driver not having valid and effective driving licence at the time of the accident and breach of the terms and conditions of the insure policy. Respondent No.3 also controverted the material averments made in the petition and denied its liability.

9. In his written statements filed in all three petitions respondent No.4 also took preliminary objections regarding want of locus standi and cause of action, non-maintainability, non-joinder and mis-joinder of necessary parties etc. and while pleading that the claimants had not attributed any negligence or made any claim against him, denied his liability.

10. In its written statement filed in all three petitions respondent No.5 took preliminary objections regarding collusion, want of cause of action, non-maintainability, deceased-Urender not having valid and effective driving licence at the time of the accident and breach of the terms and conditions of the insurance policy. Respondent No.5 also controverted the material averments made in the petition and denied its liability.

11. The Tribunal framed issues and recorded evidence produced by the parties. On perusal of the material on record and consideration of the submissions made by the learned Counsel for the parties, the Tribunal held that the causing of accident due to rash and negligent driving of Jeep bearing registration No.DL-4CB-8669 by respondent No.1 was not proved and accordingly dismissed the claim petitions.

12. Feeling aggrieved, the appellants/claimants Narender and legal representatives of deceased-Urender have filed the present appeal.

13. I have heard the learned Counsel for the appellants/claimants Narender and legal representatives of deceased-Urender and learned Counsel for respondent No.3, learned Counsel

for respondent No.4 and learned Counsel for respondent No.5 and gone through the record.

14. Learned Counsel for the appellants/claimants Narender and legal representatives of deceased-Urender has argued that the Tribunal passed the judgment without properly appreciating the facts of the case and evidence produced on the record and wrongly dismissed the claim petition against the facts and law. Initially FIR was registered against respondent No.1 under Sections 323 and 325 read with Section 34 of the I.P.C. but later on during investigation it was found that it was a case of accident and respondent No.1 was charge-sheeted under Sections 279, 337, 338 and 304-A of the I.P.C. To prove their claims, the appellants/claimants examined PW-1 to PW-10 and also produced documents Ex.P-1 to Ex.P-152 and mark A to mark B. To prove the accident the claimants examined injured-Narender and Tara Chand who testified that the accident was caused due to rash and negligent driving of Jeep bearing registration No.DL-4CB-8669 by respondent No.1. The Tribunal has resorted to hair-splitting technicalities and disbelieved the cogent and reliable statements of PW-2 Narender and PW-4 Tara Chand. Respondent No.1-driver was facing trial for causing the accident. In catena of judgments, it has been held by this Court that where driver of a vehicle is facing trial for causing accident, it is prima facie safe to conclude that the accident took place due to his negligence. Respondent No.1-driver of the offending vehicle also did not appear before the Tribunal and the Tribunal ought to have drawn adverse inference against him. By the oral and documentary evidence produced by the claimants, it is proved

that Urender died and Narender and Tara Chand suffered injuries in accident caused by rash and negligent driving of Jeep bearing registration No.DL-4CB-8669 by respondent No.1. The findings of the Tribunal are perverse and deserve to be reversed. Therefore, the appeals may be allowed, impugned award may be set aside and just compensation may be awarded by allowing the claim petitions with costs and interest.

15. On the other hand, learned Counsel for respondent No.3- Insurance Company has argued that the onus of proving that Urender died and Narender and Tara Chand suffered injuries in accident caused by rash and negligent driving of Jeep bearing registration No.DL-4CB-8669 by respondent No.1 was on the claimants. Mere registration of FIR and framing of charges against respondent No.1 was not by itself sufficient to prove rashness and negligence on the part of respondent No.1 and the claimants were required to prove the same by producing cogent and reliable evidence. Admittedly PW-2 Narender and PW-4 Tara Chand had not seen the offending vehicle before or after the accident. The testimony of PW-2 Narender and PW-4 Tara Chand as to the accident having been caused by the Jeep in question being unworthy of credit has been rightly disbelieved by the Tribunal. The findings of the Tribunal are based on proper appreciation of the evidence and are not perverse and do not call for any interference. The claim petitions were rightly dismissed and the impugned award is not liable to be set aside. Therefore, the appeal may be dismissed.

16. Learned Counsel for respondents No.4 and 5 have argued that no negligence is attributed to deceased-Urender in causing of the accident and the claimants are not entitled to award of any compensation against respondents No.4 and 5.

17. It is now well settled that proof of negligence on the part of driver or owner is necessary before the owner or the insurer of a motor vehicle can be held to be liable for payment of compensation in a motor vehicle accident claim case under Section 166 of the M.V. Act, 1988. (see **Reshma Kumari and Others Vs. Madan Mohan and another, 2013 (2) RCR (Civil) (Supreme Court) 660**). While in criminal cases negligence has to be proved beyond reasonable doubt, in civil/motor accidents claim cases the negligence has to be proved on preponderance of probabilities. (See **Bimla Devi and others Vs. Himachal Road Transport Corporation and others 2009 (3) RCR (Civil) (Supreme Court) 805** and **Parmeshwari Devi Vs. Amir Chand and others 2011 (2) RCR (Civil) (Supreme Court)153**). The normal rule is that the onus of proving negligence on the part of the driver of the offending vehicle lies on the claimants. (see **Surender Kumar Arora and another Vs. Dr. Manoj Bisla and others : 2012(4) SCC 552**). However, the normal rule results in 'hardship' to the claimant in some cases where the true cause of the accident is not known to him but is solely within the knowledge of the driver who caused it and the claimant can prove the accident but cannot prove how it happened to establish negligence on the part of the driver. In such cases where the accident speaks for itself the hardship is avoided by applying the principle of res ipsa loquitur so that it is

sufficient for the claimant to prove the accident and nothing more. It will then be for the driver to establish that the accident happened due to some other cause than his own negligence. (see **Pushpabai Parshottam Udeshi v. M/S Ranjit Ginning & Pressing Co. Pvt. Ltd., AIR 1977 SC 1735.**)

18. The question of negligence in a motor accident claim case has to be determined on the basis of direct or circumstantial evidence led by the parties and mere registration or non-registration of criminal case of negligence against a party to accident is of no consequence nor it can be taken to be conclusive evidence of negligence. Even judgment of conviction or acquittal passed by the criminal court is not binding on the tribunal. (See **Ram Karan Vs. Zile Singh 2001(3) RCR (Civil) (Punjab and Haryana High Court) 582** and **Kiran Rani and others Vs. PEPSU Road Transport Corporation and others, VOL.CXLV (2007-1) the Punjab Law Reporter (Punjab and Haryana High Court) 507**).

19. In **N.K.V. Bros, (P) Ltd, Vs. M. Karumai Ammal and others, AIR 1980 SC 1354** Hon'ble Supreme Court observed that Tribunals must take special care to see that innocent victims do not suffer and drivers and owners do not escape liability merely because of some doubt here or some obscurity there. Save in plain cases, culpability must be inferred from the circumstances where it is fairly reasonable. The court should not succumb to niceties, technicalities and mystic maybes.

20. However, several instances of making of fake claims in various districts in different parts of the country for compensation on

account of accidental deaths caused by unknown vehicle by implicating unrelated vehicle, in collusion with owner and driver thereof have come to the notice of Hon'ble Supreme Court and various High Courts. Reference in this regard may be made to **United India Insurance Co. Ltd. Vs. Rajendra Singh and others 2000 (2) PLR (Supreme Court) 787** and **Divisional Manager, United India Insurance Co. Ltd. Vs. Basappa 2012 (33) RCR (Civil) (Karnataka High Court) 660**. Reference in this regard may also be made to order dated 05.01.2017 passed by Hon'ble Supreme Court in **SLP (C) 23628 of 2016 titled Safiq Ahmad Vs. ICICI Lambard General Insurance Co. Ltd. and others** whereby notice was issued to all the High Courts through Registrars so as to ascertain from MACTs such doubtful cases which prima facie may require investigation and to prevent filing of such fabricated cases.

21. It follows that in motor accidents claim cases under Section 166 of the M.V. Act the question of negligence on the part of the driver or owner has to be determined on the basis of the evidence produced by the parties which may be direct or circumstantial or both. Such evidence has to be tested by the yardstick of probabilities and its intrinsic worth. In sifting the evidence produced by the parties, the Tribunal must take special care to see that innocent victims do not suffer and drivers and owners do not escape liability merely because of some doubt here or some obscurity there and should not succumb to niceties, technicalities and mystic maybes but the Tribunal has also the duty to guard against fraudulent acts of unscrupulous litigants of implicating an unrelated vehicle in collusion with owner and driver for

claiming compensation from the insurance company for the unfortunate incidents of accidental death caused by an unknown vehicle.

22. In the present case, on appreciation of the evidence produced by the parties, the Tribunal held that the claimants had not been able to establish on file that Urender died and Narender and Tara Chand suffered injuries in accident caused by rash and negligent driving of Jeep No.DL-4CB-8669 by respondent No.1. The question which arises is as to whether the findings of the Tribunal are based on proper appreciation of the evidence or not.

23. No doubt, on investigation of FIR No.70 dated 16.01.2001 copy Ex.P-2 registered under Sections 323 and 325 read with Section 34 of the IPC in Police Station Sadar Hisar on the basis of written complaint submitted by Harpal the Police found it to be case of accident caused by rash and negligent driving of Jeep No.DL-4CB-8669 by respondent No.1-Wazir and on completion of investigation the Police filed report under Section 173(2) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') regarding alleged commission of offences punishable under section 279, 337, 338 and 304-A of the I.P.C. against respondent No.1-Wazir. However, in view of the legal position referred to above, the mere registration of FIR and prosecution of the respondent No.1 for commission of offences punishable under Sections 279, 337, 338 and 304-A of the IPC is not by itself sufficient to prove that the accident was caused by rash and negligent driving of Jeep bearing registration No.DL-4CB-8669 by respondent No.1-Wazir and the question of involvement of the said

vehicle in the accident and negligence on the part of respondent No.1 are required to be determined on the basis of evidence produced by the parties.

24. To prove their case that Urender died and Narender and Tara Chand suffered injuries in accident caused by rash and negligent driving of Jeep No.DL-4CB-8669 by respondent No.1, the claimants examined Narender as PW-2 and Tara Chand as PW-4. PW-2 Narender and PW-4 Tara Chand have both testified that on 15.01.2001 when they along with Harpal Singh, Vikas and Kulbir were going in Jeep bearing registration No.HR-20-E-6510 driven by Urender from Modhakhera to Balsamand and crossed village Burak, Jeep No.DL-4CB-8669 driven by respondent No.1 Wazir at a very fast speed and in a rash and negligent manner came from behind and while overtaking from left side struck with their Jeep due to which their Jeep turned turtle after dashing against the trees due to which they and Urender suffered multiple serious injuries and Urender died subsequently due to the injuries suffered in the accident. PW-2 Narender and PW-4 Tara Chand have also testified that after the accident respondent No.1 fled from the spot. However, in his cross-examination PW-2 Narender has stated they he had not seen the offending Jeep as it was coming behind their Jeep and Harpal and Vikas told him later about the offending Jeep. In his cross-examination PW-4 Tara Chand has admitted that he had not seen the offending Jeep before and after the accident and he came to know about the offending Jeep in the hospital. In view of these admissions PW-2 Narender and PW-4 Tara Chand cannot be said to have identified the

offending Jeep and its driver at the time of the accident and their testimony as to identification of the offending Jeep and its driver is based on hearsay as both of them have stated that they came to know about the offending Jeep later. The claimants have not examined other occupants of the offended Jeep namely Harpal Singh, Vikas and Kublir to depose about identification of the offending Jeep and its driver and to prove causing of the accident by Jeep bearing registration No.DL-4CB-8669 and due to rash and negligent driving thereof by respondent No.1.

25. In their written statements respondent No.2-registered owner and respondent No.3-insurer of Jeep bearing registration No.DL-4CB-8669 have pleaded that the abovesaid Jeep has been falsely implicated in the accident. To prove her defence Respondent No.2 appeared in the witness-Box as RW-2 and examined her driver Satbir as RW-3. RW-2 Meena Kumari has stated that she was the registered owner of Jeep bearing registration No.DL-4CB-8669 on which Satbir was employed as Driver. On 27.02.2001 Balbir Singh along with Partap Singh offered to buy the said Jeep and made part payment and took the said Jeep with them and thereafter Balbir Singh and Partap Singh came to her on 01.03.2001 and made the balance payment on which she executed transfer documents in favour of Partap Singh who handed over duly sworn affidavit Ex..R-20 to her. On the asking of Balbir Singh she executed GPA on 01.03.2001 in his favour for completion of transfer formalities. RW-2 Meena Kumari has also testified that respondent No.1 Wazir or any other person had never driven said Jeep till she remained the owner thereof. Testimony

of RW-2 Meena Kumari is corroborated by testimony of RW-3 Satbir Singh who has testified by way of affidavit Ex.RW-3/A that he remained employed as driver on Jeep bearing registration No.DL-4CB-8669 of Smt. Meena Kumari who sold the same to Partap Singh on 27.02.2001 and during his employment respondent No.1 Wazir or any other person was not employed and did not work as driver on the abovesaid Jeep. In his cross-examination RW-3 Satbir Singh has also stated that the abovesaid Jeep did not meet with any accident on 15.01.2001. The veracity of testimony of RW-2 Meena Kumari and RW-3 Satbir Singh could not be shattered by their cross-examination. The evidence produced by the claimants as to the accident in question having been caused by rash and negligent driving of Jeep bearing registration No. DL-4CB-8669 by respondent No.1-Wazir is rebutted and falsified by cogent and reliable evidence produced by respondent No.2 registered owner of the Jeep at the time of the accident and therefore, the evidence produced by the claimant could not be relied and acted upon.

26. Further, it may also be observed here that there was delay in lodging of FIR. Initially FIR No.70 dated 16.01.2001 copy Ex.P-2 was registered under Sections 323 and 325 read with Section 34 of the IPC in Police Station Sadar Hisar on the basis of written complaint submitted by Harpal Singh. In his written complaint Harpal Singh alleged that on 15.01.2001 at about 6:30 p.m. when he, Urender, Narender, Tara Chand, Vikas and Kulbir were going in Jeep No.HR-20E-6501 to Balsamand Liquor Vend for collecting cash, accused Wazir along with his one companion chased their Jeep and with intent

to rob and kill them struck his Jeep in their Jeep after overtaking from the left side due to which their Jeep became out of control and after dashing against the trees in the side overturned due to which Urender, Narender and Tara Chand suffered multiple injuries and he, Vikas and Kulbir suffered simple injuries. Respondent No.1 Wazir and his companion got down from their Jeep, robbed the bag containing cash of ₹5,000/- and fled from the spot. The first version given in the FIR registered on the complaint of Harpal Singh is inconsistent with the testimony of PW-2 Narender and PW-4 Tara Chand who did not support the version regarding voluntarily causing of hurt to them with intent to kill and robbing of bag by Wazir and his companion. It is important to note here that number of the Jeep of respondent No.1 Wazir was not mentioned in the written complaint submitted by Harpal Singh on the basis of which FIR was registered. Admittedly PW-2 Narender and PW-4 Tara Chand did not witness the offending jeep and its driver at the time of the accident and did not disclose number of the offending Jeep in their statements made to the police during investigation. Admittedly, the accident took place in the night at about 8:30 p.m. and the offending vehicle fled from the spot. How and by whom offending vehicle and its driver were identified is not explained and the person concerned who disclosed the number of the offending vehicle to the police and PW-2 Narender and PW-4 Tara Chand has not been examined as witness before the Tribunal. Despite registration of FIR against respondent No.1-Wazir by name, offending Jeep bearing registration No.DL-4CB-8669 was not seized by the police prior to 01.03.2001 and it was only after its transfer by respondent

No.2 Meena Kumari on 01.03.2001 in favour of Partap Singh on negotiation through Balbir Singh father of respondent No.1-Wazir and payment of sale consideration on 27.02.2001 and 01.03.2001 that the abovesaid Jeep was seized by the police on 01.03.2001. The abovesaid Jeep was got released on sapurdari by Balbir Singh father of respondent No.1 by filing application for sapurdari on 01.03.2001 and furnishing sapurdari bonds on 05.03.2001 as per order dated 05.03.2001 on the basis of general power of attorney got executed by him from respondent No.2-Meena Kumari registered owner on 01.03.2001. Sh. Harish Sharma, Advocate, who filed sapurdari application for release of Jeep bearing registration No.DL-4CB-8669 on sapurdari, subsequently became Counsel for some of the claimants. These facts legitimately and inevitably give rise to the inference of collusion between the claimants and respondent No.1 and his father Balbir Singh. Respondent No.1 did not contest the petition and suffered himself to be proceeded against ex parte. However, in the factual backdrop of the case, which is suggestive of collusion between the claimants and respondent No.1, no adverse inference of respondent No.1 having caused the accident as pleaded by the claimants could be drawn against respondent No.1 due to his non-appearance. In these facts and circumstances of the case also the testimony of PW-2 Narender and PW-4 Tara Chand was not worthy of any credit and was rightly disbelieved by the Tribunal.

27. The well reasoned findings of the Tribunal on issue No.1 as to Jeep bearing registration No.DL-4CB-8669 not being involved in the accident are based on sound understanding of the facts and

proper appreciation of the evidence produced on record and not being contrary to the facts, evidence on record and law on the subject, cannot be said to be perverse and do not, therefore, call for any interference. Consequently, appellant/claimant Narender and appellants/claimants Sudesh and others legal representatives of Urender are not entitled to award of compensation against owner and insurer of Jeep bearing registration No.DL-4CB-8669 under Section 166 of the M.V. Act and their claim petitions in this regard have been rightly dismissed by the Tribunal.

28. Since the accident is not pleaded and proved to have been caused due to rash and negligent driving of Jeep bearing registration No.HR-20E-6501 by Urender, appellant/claimant Narender is not entitled to award of compensation against owner and insurer of Jeep bearing registration No.HR-20E-6501 under Section 166 of the M.V. Act. Since as per averments made in the claim petition deceased-Urender and injured-claimant Narender were having income of more than ₹40,000/- per annum, appellant/claimant Narender and appellants/claimants Sudesh and others legal representatives of Urender are not entitled to award of compensation against owner and insurer of Jeep bearing registration No.HR-20E-6501 under Section 163-A of the M.V. Act. Appellant/claimant Narender and appellants/claimants Sudesh and others legal representatives of Urender have also failed to prove their entitlement to compensation under contractual stipulations of the insurance policy of Jeep bearing registration No.HR-20E-6501.

29. However, in view of the provisions of Section 140 of the M.V. Act and observations in **Eshwarappa @ Maheshwarappa and Anr. Vs. C.S. Gurushanthappa and Anr. 2010(8) SCALE 263** and **Bajaj Allianz General Insurance Company Ltd. Vs. Kanchan w/o Suresh Sethi and others : 2013 (2) PLR 563** the appellants/claimants Sudesh and others legal representatives of deceased-Urender are entitled to payment of compensation of ₹50,000/- on account of his death as the statutory minimum payable under no fault liability from the insurer of offended Jeep bearing registration No.HR-20E-6501. Since, as per Disability Certificate Mark-A disability of injured-claimant Narender was temporary and his condition was progressive and likely to improve, injured-claimant Narender cannot be said to have suffered permanent disablement due to injuries caused in the accident and he is not entitled to even payment of ₹25,000/- as the statutory minimum payable under no fault liability under Section 140 of the M.V. Act from the insurer of offended Jeep bearing registration No.HR-20E-6501.

30. In view of the above discussion, the appeals are dismissed leaving the parties to bear their own costs with modification of the impugned award dated 11.09.2006 qua the liability of respondent No.5-Insurance Company to pay amount of ₹50,000/- to claimants Sudesh and others legal representatives of deceased-Urender under Section 140 of the M.V. Act. Respondent No.5-Insurance Company is directed to pay amount of ₹50,000/- to claimants Sudesh and others legal representatives of deceased-Urender under Section 140 of the

M.V. Act. with interest at the rate of 9% per annum from the date of filing of the petition till realization.

(ARUN KUMAR TYAGI)
JUDGE

31.05.2019
Kothiyal

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No