

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4327-2019 (O&M)
Date of decision:08.07.2019

National Insurance Co. Ltd.

...Appellant

V/s.

Kiranjeet Kaur and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. S.S. Sidhu, Advocate for the appellant.

RITU BAHRI, J. (Oral).

The insurance company has come up in appeal against the award dated 18.03.2019 whereby compensation has been awarded to the claimants and the National Insurance Company, who had insured the motor-cycle has been held liable to make payment of 50% compensation.

Learned counsel for the insurance company while referring to the facts of the case, has argued that the accident took place when LPG tanker bearing registration No. PB-10EH-2497 was being driven by respondent No. 1, one motor cycle bearing registration No. PB-04Z-2986 which was being driven by respondent No. 4 Kuldeep Singh suddenly came in front of the aforesaid LPG truck/tanker from Kacha berm of the road. The driver/respondent No. 1 of the LPG truck/tanker suddenly applied the brakes and as a result of this, a car which was being driven by Gursewak Singh, which was behind the truck, hit the back side of the truck and Gursewak Singh received multiple grievous injuries and other occupants of the car received minor injuries. In the accident, Gursewak Singh has died and Ram Murti, the occupant in the car, remained admitted in Delhi Heart

and Multi Speciality Hospital, G.T. Road, Bathinda. An FIR No. 138 dated 28.12.2017 under Sections 304-A/337/428 IPC was registered at Police Station Bajakhana, District Faridkot against respondent No. 4 Kuldeep Singh.

Learned counsel for the insurance company has argued that merely an FIR was registered against respondent No. 4, insurance company cannot be imposed to pay 50% compensation.

A perusal of the award shows that the claimants have produced on record copy of the FIR (Ex.C1) and cross-examined CW-1 Kulwinder Singh at length and nothing favourable to the respondents could be brought on record. Another aspect noticed by the Tribunal is that respondent No.1-the driver of the truck and respondent No. 4-the driver and owner of the motor-cycle did not step into the witness box and hence the evidence led by the claimants was accepted and the trial was proceeded against respondent No. 4. The registration of FIR and pendency of the criminal trial against respondent No. 4 was sufficient evidence to return a finding that accident took place as the motor-cycle suddenly came in front of the LPG truck/tanker and the driver/respondent No. 1 of the LPG truck/tanker suddenly applied the brakes and as a result of this, a car which was behind the LPG truck/tanker hit the back side of the truck/tanker. Finding on issue no. 1 has been rightly given keeping in view the judgments passed in *Girdhari Lal V/s. Radhey Shyam and others* Vol CIV (1993-2) The Punjab Law Reporter Page 109, *Sudama Devi and others V/s. Kewal Ram and others* Vol. CXLIX-PLR (2008-1) and *Mangla Ram V/s. Oriental Insurance Co. Ltd.* 2018 AIR (SC) 1990.

A perusal of the award further shows that even the driver of the car who was behind the truck, has been held 50% negligent as the driver was required to maintain sufficient distance from the tanker/truck. Had the driver kept sufficient distance, accident could have avoided. The Tribunal has rightly held respondents No. 4 and 5 liable to pay compensation amount jointly and severally.

No merit.

Dismissed.

08.07.2019

Divyanshi

(RITU BAHRI)
JUDGE

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