

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. FAO-5254-2019 (O&M)

The Oriental Insurance Co. Ltd.

..... Appellant

Versus

Savita Kumar and others

..... Respondents

2. FAO-5251-2019 (O&M)

The Oriental Insurance Co. Ltd.

..... Appellant

Versus

Mohd. Waseem and others

..... Respondents

Date of decision: 26.08.2019

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. RK Bashamboo, Advocate
for the appellants (in both appeals).

RAMENDRA JAIN, J. (ORAL)

CM-17166-CII-2019 in FAO-5254-2019

For the reasons explained in the application which is supported by an affidavit of learned counsel for the appellant, the same is allowed. Delay of 10 days in refiling appeal bearing FAO-5254-2019, is condoned.

FAO Nos. 5254 and 5251-2019 (O&M)

By this common judgment above titled two appeals are being disposed of, being arisen out of consolidated Award dated 26.03.2019 of the Motor Accident Claims Tribunal, Ambala (for short-'the Tribunal') whereby separate claim petitions under Section 166 of the Motor Vehicles Act, 1988, (hereinafter referred to as-'the Act') filed by claimant-respondents have been accepted, on account of injuries sustained by them in a motor vehiclular accident occurred on 07.04.2015. For brevity, the facts are being extracted from FAO-5254-2019.

Briefly, in the early morning of 07.04.2015, claimant-respondent No. 1-Savita Kumar, Mohd. Waseem and Mewa Singh, boarded a bus of Haryana Roadways bearing registration No. HR-37-0639 for Jagadhri from Ambala Cantt. and when they reached near bridge of Chhotta Khuda power house, suddenly a canter bearing registration No. HR-55-M-1361 driven by respondent No. 4-Mohd. Bhasin/Mohd. Waseem, came from front and straight away struck to their bus. It was a head on collusion. As a result thereof, driver of their bus Vijender Singh died at the spot and its other travellers received multiple simple and grievous injuries on their person. Respondents Savita Kumar, Mohd. Waseem, legal heirs of Vijender Singh-deceased driver of aforesaid bus and one other passenger, namely, Mewa Singh, filed their respective claim petitions under Section 166 of the Act, claiming compensation, on account of injuries suffered by them and death of Vijender Singh, which were contested tooth and nail by the appellant-Insurance Company and other respondents.

The learned Tribunal, after holding trial, awarded compensation to respondent No. 1-Savita Kumar to the tune of ₹1,10,700/- and ₹17,22,528/- to Mohd. Waseem, observing that he had become permanently disabled, along with interest @ 7.5% per annum from the date of filing of claim petition till realization.

Learned counsel for the appellant *inter alia* contends that learned Tribunal failed to appreciate that driving licence of driver of offending bus, namely; Vijender Singh, was not valid. Thus, no liability could have been fastened upon the appellant-Insurance Company, being insurer of the offending bus. Since, Mohd. Waseem, driver of the offending canter was negligent in driving his canter, therefore, his claim petition has illegally been accepted.

Having given thoughtful consideration to the submissions of learned counsel for the appellant, this Court finds both the appeals merit dismissal for the reasons to follow:

The learned Tribunal while dealing with the above submissions of learned counsel for the appellant-Insurance Company, in detail observed that appellant-Insurance Company, had got verified driving licence bearing No. 186414/MTH, in place of correct driving licence number of deceased-Vijender Singh bearing No. 186414/MS/Prof. Thus, wrong report obtained by surveyor of the appellant-Insurance Company, has rightly been discarded by the learned Tribunal.

As far as, alleged negligence of the driver of offending canter is concerned, there was no iota of evidence on record before the

learned Tribunal, to hold him guilty for causing the impugned accident, inasmuch as, appellant-Insurance Company, did not lead any such evidence.

In view of discussion made above, both the appeals, being meritless, are dismissed.

August 26, 2019
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(RAMENDRA JAIN)
JUDGE

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