

Similarly, in FAO No.5524 of 2006 Insurance Company-appellant is challenging the aforesaid award, whereby compensation of Rs.25,000/- has been awarded in favour of claimant-respondent No.1 on account of injuries received by him in the aforesaid accident.

Appellant-Insurance Company is challenging the finding given by Tribunal on issue No.1 on the ground that the accident had taken place on account of negligent driving by Rajinder-claimant, who had struck the car in a negligent manner by overtaking the vehicle, which was insured with the appellant-Insurance Company.

Learned counsel for the appellant-Insurance Company has argued that the eye witnesses namely Sanjay Khurana (PW-3) and Rajinder (PW-4) have stated that the car had struck the behind portion of canter and it cannot be taken to be a case, where the canter was overtaking the car.

Heard, counsel for the parties.

With regard to this aspect, the Tribunal has observed that as per photographs Ex.R5 to Ex.R7, left doors of the car were damaged. However, front portion of the car had not been damaged at all. Sanjay Khurana (PW-3) and Rajinder (PW-4) being illiterate had only stated that the car had struck the behind portion of the canter. Moreover, after investigation of the case, driver of offending canter namely Sunil Kumar had been challaned for causing the accident. Sunil Kumar, driver, while appearing as RW-7, had admitted the accident and the fact that he was facing challan in respect of the above accident.

Learned counsel for respondent No.1 has produced copy of deposition of Rajinder Singh (PW-4), wherein he had stated that he was driving the car, which was owned by Amit Kumar. Amit Kumar was also

travelling with him. A canter bearing registration No. HR-46-C-4725, which was coming towards Rohtak side, over took the car and he applied brakes, as a result of which, his car struck in the hind portion of the canter. In the accident, Amit Kumar and he (Rajender Singh) received multiple injuries. He became unconscious, but he noted down the number of canter. On 06.02.2005, he revealed the number of canter, with which the accident had taken place. During cross-examination, no question was put to this witness, as to whether the canter overtook the car or not. Hence, statement of Rajinder Singh (PW-4) has to be read as a whole. Once, he made a statement that the canter had overtaken the car, the second statement that he hit the back portion of canter, had been rightly interpreted by the Tribunal while coming to a conclusion that actually, the accident had taken place when the canter was overtaking the car. Even, as per mechanical report, left side of the car was damaged and there was no damage on its front portion. Furthermore, the driver had himself admitted the accident while appearing as RW-7. In these circumstances, finding on issue No.1 has been rightly given by the Tribunal.

After going through the impugned award, this Court is of the view that the compensation has been rightly awarded in favour of the claimants Raj Rani and Rajender as per law prevalent at that time and no ground is made out to interfere therein. The evidence has been appreciated in the right perspective.

Resultantly, finding no merits, the present appeals i.e. FAO No.5523 of 2006 and FAO No.5524 of 2006 are dismissed.

(RITU BAHRI)
JUDGE

28.08.2019
ajp

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