

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

FAO-1946-2012(O&M)

Date of decision:-27.2.2019

Reliance General Insurance Company Ltd.

...Appellant

Versus

Smt.Sarita Devi and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Arun Sharma, Advocate for
Mr.T.K. Joshi, Advocate for the appellant.

Ms.Suchi Sodhi, Advocate
for respondents No.1 to 4.

H.S. MADAAN, J.

On account of death of Sh.Krishan Kumar son of Sh.Suresh Kumar in a motor vehicular accident, which took place on 24.11.2009 at about 7/7:30 p.m. in the area of Police Station Ateli near Mehra Petrol Pump, statedly on account of rash and negligent driving of Mahindra Max having registration No.HR-66-1067 (hereinafter referred to as the offending vehicle) by respondent No.1 – Surat Singh, his legal representatives i.e. Smt.Sarita Devi – wife, Himansu – minor son, Sh.Suresh Kumar – father and Smt.Savita – mother had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 impleading Surat Singh – driver, Anil Kumar – owner and Reliance Insurance

Company Ltd. – insurer of the offending vehicle as respondents. That claim petition was contested by all the three respondents.

Vide Award dated 14.10.2011, learned Motor Accidents Claims Tribunal, Narnaul allowed the claim petition and awarded compensation of Rs.7,18,719/- to all the claimants/petitioners with additional compensation of Rs.10,000/- to claimant No.1 – Smt.Sarita Devi on account of loss of consortium, along with interest @ 12% per annum to the claimants payable by all the three respondents jointly and severally.

The respondent No.3 – insurance company felt aggrieved by the said Award and has approached this Court by way of filing an appeal.

Notice of the appeal was issued to the respondents. Respondents No.1 to 4 have appeared through counsel.

I have heard learned counsel for the appellant – insurance company and learned counsel for respondents No.1 to 4 besides going through the record.

The first and foremost contention of learned counsel for the appellant – insurance company is that the vehicle in question was not involved in the accident and same was planted later on simply to get compensation; that the accident had taken place on 24.11.2009, whereas the FIR was got registered by one Ashok Kumar on 23.1.2010 against an unknown vehicle; that the vehicle in question was taken into possession by the police on 6.4.2010; that there was delay of about 60 days in lodging of the FIR; that the learned Tribunal wrongly ignored that fact and fell in error in coming to the conclusion that the accident had been

caused due to rash and negligent driving of the offending vehicle by respondent No.1.

This contention is being vehemently contested by learned counsel for the claimants.

After hearing the rival contentions of learned counsel for the parties and going through the record, I find that the arguments advanced by learned counsel for the appellant insurance company are devoid of any merit. Section 166 of the Motor Vehicles Act is a piece of welfare legislation. It was enacted by the Parliament to provide relief to the persons, who suffered injuries in the motor vehicular accident as well as to the legal representatives of the victims, who unfortunately lost their lives in such mishaps. Strict rules of evidence and procedure are not applicable there. Furthermore, the Tribunal deciding the claim petition is to reach its own conclusion on the basis of evidence adduced before it. The reports of the police officers and even judgment of a Criminal Court are not binding upon the Tribunal.

Furthermore, it is not in dispute that FIR is not an encyclopedia and the detailed version of an incident need not be given there. The only purpose of lodging an FIR with regard to commission of a cognizable offence is to set the criminal machinery into motion. It is only after registration of the FIR and during investigation that the investigating agency came to know about the manner in which the offence was committed and person responsible for doing so. In the present case, the Tribunal on appreciation of the evidence adduced before it including statements of eye witnesses PW2 Lala Ram and PW3 Ashok Kumar came

to the conclusion that their depositions inspire full confidence and version given by them was natural and convincing about the accident. Therefore, the Tribunal came to the conclusion that accident took place due to rash and negligent driving of respondent No.1 resulting in causing grievous injuries to Krishan Kumar, to which he succumbed. After registration of the FIR Ex.PW5/A, respondent No.1 had been sent up to face trial. Copy of challan, charge-sheet and other relevant documents have been placed on record by the claimants. The evidence adduced by claimants has gone unrebutted.

Learned counsel for the respondents has referred to authority *Varinderjit Singh Versus Tajinder Singh and others, 2008(1) RCR(Civil)67* by a Co-ordinate Bench of this Court wherein it was observed that while deciding claim petition under Section 166 of the Motor Vehicles Act, 1988, the Tribunal cannot act as a criminal Court and demand proof of accident beyond any shadow of reasonable doubt, since in terms of scheme incorporated under the Motor Vehicles Act relating to the enquiries by the Motor Accidents Claims Tribunal, the proceedings are summary in nature and strict rules of evidence are not applicable; the job of the Tribunal is to ascertain as to whether the accident has been caused out of use of motor vehicle.

As regards the next contention, the Tribunal had taken age of the deceased to be 25 years in view of such age given in his post-mortem report. Though the claimants had submitted that deceased was earning Rs.15,000/- per month from the avocation of agricultural and dairy farming, However, the Tribunal did not take income of the deceased as

such, rather relied upon the order issued by Deputy Commissioner, Narnaul dated 17.5.2009 providing minimum wages of Rs.4,000/- per month for unskilled labourers. This amount can certainly be not taken to be on higher side. Keeping in view the number of dependents upon deceased to be four, the Tribunal has deducted 1/4th of the amount towards personal expenses of the deceased in view of the authority *Smt.Sarla Verma and others Versus Delhi Transport Corporation and Anr., 2009(3) RCR(Civil)77.* This was properly done. Multiplier of 18 was also rightly used. The Tribunal had rejected the claim with regard to medical bills, receipts doubting the genuineness of the bills produced. It may be mentioned here that the Tribunal has not awarded any amount towards future prospects and the amount awarded under the conventional heads is also on the lower side but since no appeal has been filed by the claimants for enhancement of compensation and no cross-objections have either been brought, those are not being granted to them.

No other argument was advanced.

The appeal stands dismissed with costs.

27.2.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No