

FAO-5314-2019

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

FAO No.5314 of 2019(O&M)
Decided on: 29.08.2019

IFFCO TOKIO General Insurance Company Limited.

.....Appellant

versus

Suman Devi and others

....Respondents

CORAM : HON'BLE MR.JUSTICE DR.RAVI RANJAN

Present: Mr.Vishal Aggarwal, Advocate,
for the appellant.

DR.RAVI RANJAN, J. (Oral Judgment)

This appeal has been preferred by the Insurance Company, being respondent No.3 in the claim application, assailing the Judgment and Award dated 14.05.2019 passed by the Motor Accident Claims Tribunal, Rewari in MACT No.193 of 2016 by which the Tribunal has awarded total compensation amount of Rs.46,93,000/- to the claimants/ respondents on account of death of one Pradeep Singh Shekhawat in a motor vehicular accident alongwith interest at the rate of 9% per annum to be calculated from the date of filing of the claim petition till realisation of the amount.

1. Shorn off unnecessary details, brief facts of the case are as under:

Pradeep Singh Shekhawat (since deceased) was going on foot to village Odhi towards his in-laws village. When he was crossing the National Highway No.8 near Odhi, an Innova vehicle bearing registration No.HR-55U-3192 came from Jaipur side being driven by respondent No.1-Rafik Mohammed (respondent No.5 herein) in a rash and negligent

manner at a very high speed and hit the deceased. As a result, he fell down and sustained grievous and fatal injuries. He was shifted to Central Hospital, Bawal, where he remained hospitalised till 07.11.2015. He was next shifted to SMS Hospital, Jaipur, where he remained admitted upto 12.10.2015 and lastly was taken to Army Hospital (RR Hospital, Delhi) where he died during his treatment on 03.02.2016 due to the injuries sustained by him in the accident.

On the statement of an eyewitness Bijender, FIR No.197 dated 10.11.2015 under Sections 279/337/304-A of the IPC was registered at Police Station Bawal.

2. The claimants have pleaded that Pradeep Singh Shekhawat was aged about 24 years at the time of his accident and he was employed as a soldier in the Indian Army and was drawing a sum of Rs.50,000/- per month and the claimants were fully dependent upon the income of the deceased before his death for their livelihood.

3. On notice having been given, the driver and the owner filed their joint written statement raising diverse objections. They have stated that no alleged accident took place involving the concerned vehicle in question and a false FIR has been registered in collusion with the local police however, the offending vehicle was duly insured with respondent No.3-Insurance Company and also that the driver was holding a legal and valid driving licence at the time of alleged accident.

Respondent No3-Insurance Company (appellant herein) filed its separate written statement stating that the driver of the offending vehicle

was not holding a valid and effective driving licence at the time of accident and the insured had violated the terms and condition of the insurance policy. The contents of FIR was also denied and it was stated that offending vehicle has falsely been involved in collusion with the local police.

4. After consideration of rival pleadings, the Tribunal framed following issues:

1. Whether deceased Pardeep Singh died in a motor vehicle accident occurred on 6.11.2015 due to rash and negligent driving of offending vehicle bearing registration NO.HR-55U-3192 by driver respondent No.1?OPP
2. Whether the petitioners are entitled to get compensation, if so to what amount and from whom?OPP
3. Whether the respondent No.1 was not holding a valid and effective driving licence on the date of alleged accident?OPR No.3
4. Relief.

5. The Tribunal has returned the findings on all the issues in favour of the claimants/petitioners.

6. In the aforesaid background of factual matrix, I have heard learned counsel for the appellant.

Chiefly, two grounds have been raised on behalf of the appellant at the time of hearing. First is that no independent eyewitness has been examined and secondly, that there is a delay of four days in lodging the First Information Report. It is contended on behalf of the appellant that though PW7 claims that he was available at the spot when the accident took place but it is intriguing as to why he did not immediately informed the police and why he did it after four days so the

FIR could be registered lately.

After hearing the appellant and consideration of materials available on record I am of the opinion that both the grounds raised by the appellant are not tenable. It is evident from the impugned Judgment itself that the informant-Bijender was examined as PW7 and he had given a vivid description of the chain of events resulting in accident and consequent death of Pradeep Singh Shekhawat. That apart, FIR was registered and the police, after investigation had submitted final report under Section 173 Cr.P.C., which has been brought on record as Ex.P208 and, thus, it is evident that the driver is facing trial for rash and negligent driving causing death. Though a stand has been taken by the Insurance Company that the PW7-Bijender is a planted witness but there is nothing on record to prove it. So far the question that why he did not immediately lodged FIR, is concerned it is apparent that the insured was first taken to several hospitals and he died subsequently, therefore, the delay of four days in lodging the FIR would not be fatal. It is apparent from the impugned Judgment that it was argued on behalf of the claimants that the information of accident was given to the police on the day of accident itself by the doctor of concerned Central Hospital, Bawal. By now it is well settled that the claim cases are summary proceedings in the nature of enquiry for assessing the just and fair compensation to the victims of motor vehicular accident and in such cases, there would be no requirement of proving the case beyond all reasonable doubt by the claimants as is required to be done in a criminal

trial. There are catena of decisions of the Hon'ble Supreme Court on this point, however, a reference is made to one of such decisions rendered in **“Sunita and others Vs. Rajasthan State Road Transport Corporation and another,” AIR 2019 SC 994.**

7. Having considered the facts and circumstances discussed above, this Court is of the opinion that no good ground could be raised by the learned counsel for the appellant warranting interference of this Court in the impugned Judgment and Award.

In the result, this appeal is dismissed.

Before parting with the matter it is made clear that no other ground was raised by learned counsel for the appellant save and except those that have already been discussed and considered as above.

August 29, 2019
dharamvir

(DR. RAVI RANJAN)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable :	No