

In the High Court of Punjab and Haryana at Chandigarh

**FAO- 5363 of 2019 (O&M)
Date of Decision: 2.9.2019**

Shri Ram General Insurance Company Limited

---Appellant

versus

Bhinder Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajbir Singh, Advocate
for the appellant**

Rekha Mittal, J.

Challenge in the present appeal has been directed against award dated 24.1.2019 passed by the Motor Accidents Claims Tribunal, Fatehgarh Sahib (in short “the Tribunal”) whereby compensation has been assessed on account of death of Kuldeep Singh in a motor vehicular accident that took place on 15.2.2017.

Counsel for the appellant would inform that the appeal has been filed to assail findings of the Tribunal on issue No. 1 as deceased himself was negligent for the occurrence.

Apart from the fact that there is delay of 111 days in filing the appeal, challenge to the award particularly findings of the Tribunal on issue No. 1 sans merit, thus, appeal is liable to be rejected.

The sole submission made by counsel is that as the deceased was to cross the road for going towards Bhatti Chowk, he did not take care

to ensure that no vehicle is coming from either side of the road while crossing the road. In addition, it is argued that in respect of occurrence that took place on 15.2.2017 at about 2-20 p.m, FIR was registered on the next day and delay in lodging FIR shows that it was registered after due deliberation.

The claimants examined Lakhvir Singh CW4. Perusal of testimony of Lakhbir Singh, copy whereof was supplied during the course of hearing, would reveal that he has supported cause of the claimants by way of his affidavit Ex. PW4/A. Counsel read cross examination of Lakhvir Singh in extenso but failed to point out any facts elicited therein to create slightest doubt that deceased himself was negligent or negligence to any extent can be attributed to deceased for the unfortunate occurrence in which he sustained serious injuries that proved fatal.

Counsel, in response to a query, would fairly inform that Parvinder Singh driver of offending vehicle did not appear in the witness box to explain the circumstances under which the occurrence in question took place or rebut testimony of Lakhvir Singh. He has also not disputed that Parvinder Singh faced criminal trial on the basis of FIR lodged at the behest of Lakhvir Singh, In the given scenario, I do not find any reason to interfere in findings of the Tribunal on issue No. 1.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. It is clarified that this court has not examined quantum of compensation assessed by the Tribunal. In case, the claimants file an appeal for grant of additional compensation, disposal of

appeal filed by insurance company shall not cause prejudice to right of the claimants.

Statutory amount of Rs. 25,000/- be remitted to the Tribunal for payment to the claimants.

(Rekha Mittal)
Judge

2.9.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No