

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

207

FAO-4210-2012 (O&M)

Date of decision: 17.07.2019

BAJAJ ALIANZ GENERAL INSURANCE CO. LTD. ... Appellant

Versus

NEENA KAUR AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vishal Aggarwal, Advocate for the appellant.
Ms. Rakhi Sharma, Advocate for respondents No.1 to 5.
Mr. Rajender Sharma, Advocate for respondent No.8.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 19.04.2012 passed by the Motor Accidents Claims Tribunal, Amritsar whereby compensation has been assessed on account of death of Mahinder Singh in a motor vehicular accident that took place on 08.12.2009 in an application filed under Section 163-A of the Motor Vehicles Act, 1988.

The precise grievance of the appellant is that Mahinder Singh was a borrower of the motorcycle owned by Kuldeep Singh and accident took place when the offending truck bearing No.PB-06-F-9334 hit the motorcycle from behind. It is further submitted that the entire compensation assessed by the Tribunal is payable by owner of the offending vehicle. It is argued that the Tribunal has wrongly held that out of compensation assessed, a sum of Rs.1 lakh shall be payable by the insurer of motorcycle No.PB-02-BC-5507 in view of personal accident cover for owner/driver. It is argued that no such issue with regard to contractual liability of the appellant was raised by the claimants.

Counsel representing the claimants, on the contrary, has supported findings of the Tribunal. However, she has submitted that claimants are interested in payment of compensation irrespective of by whom the payment is made.

The controversy raised in the present appeal is squarely covered in favour of the appellant by judgment of this Court **Reliance General Insurance Co. Ltd. Vs. Jaswinder Pal Kaur and others, FAO No.1840 of**

2015, decided on 22.08.2017.

Accordingly, the appeal is allowed to the extent that the appellant shall not be liable to pay a sum of Rs.1 lakh by way of enforcement of contractual obligation. It is clarified that entire compensation assessed by the Tribunal shall be payable by the owner and insurer of truck bearing No.PB-06-F-9334. Nothing stated hereinbefore shall prejudice the claimants/respondents to take recourse to appropriate proceedings before a competent Fora for enforcement of contractual obligation of the appellant – insurance company, in accordance with law.

17.07.2019

ashok

Whether speaking/reasoned:
Whether reportable:

(REKHA MITTAL)

JUDGE

Yes / No
Yes / No