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

**FAO-1532-2013(O&M)
Date of Decision : 14.02.2019**

The Oriental Insurance Company Limited

...Appellant

vs.

Nanhe and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sanjiv Pabbi, Advocate
for the appellant.

Mr. H.P.S.Kochhar, Advocate
for respondent No. 1.

Mr. Charanpreet Singh, Advocate for
Mr. Siddhant Pandit, Advocate
for respondent No.2.

Ms. Sona Kaur, Advocate for
Mr. Yogesh Goyal, Advocate
respondent No. 4.

Mr.D.R.Bansal, Advocate
for respondent No. 5.

Avneesh Jhingan, J. (Oral)

The award dated 02.11.2012 passed by the Motor Accident
Claims Tribunal, Chandigarh (for short 'the Tribunal') has been assailed
by the Insurer of Tata-207 Truck bearing registration No. HR16-1821
(for short 'the offending vehicle') seeking reduction of compensation

awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The facts emanating from the record are that on 19.07.2007 a motor vehicular accident took place which proved fatal for Ram Sewak. The said accident involved bus bearing registration No. HP10-0308. FIR No. 112 dated 19.07.007 was registered at Police Station Dharampur, District Solan.

A claim petition was filed under Section 166 of the Act. The Tribunal held that the accident was caused due to rash and negligent driving of the offending vehicle. The Tribunal awarded a sum of ₹ 6,58,000/- along with interest @ 7.5% per annum. The Insurer of the offending vehicle was held liable to pay compensation to the claimants at first instance but was granted recovery rights.

The only issue raised in the present appeal is that the widow of Ram Sewak had earlier filed a claim petition at Panchkula. The same was dismissed on 17.09.2009 which is annexed with the appeal. The grievance is that the present claim petition was filed without disclosing the above said fact.

Vide order dated 23.10.2013, the execution of the award beyond 50% was stayed subject to the appellant's depositing remaining 50% of the amount which was to be paid to the claimants against the surety.

The impugned award is set aside and the matter is remitted back to the Tribunal to decide the claim petition afresh in accordance

with law, taking into consideration the award dated 17.09.2009 passed

by Motor Accident Claims Tribunal, Panchkula. Needless to say that the parties be given opportunity to adduce evidence in support of their claim. The Tribunal, if need be, can verify the worth of the surety already furnished and if need be, fresh surety be asked for.

The parties are directed to appear before the Tribunal on 02.04.2019.

Disposed of accordingly.

14th February, 2019

shabha

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No