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

**FAO No.3854 of 2014 (O&M)
Date of decision: 17.10.2019**

Advanced Institute of Technology & Management
….Appellant
Versus

Girraj and others
….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajiv Sharma, Advocate,
for the appellant.

Mr. J.S. Hooda, Advocate,
for respondent Nos. 1 to 3.
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RITU BAHRI J. (Oral)

CM No.11777-CII of 2014

For the reasons mentioned in the application, same is allowed and delay of 24 days in re-filing of the appeal is condoned.

FAO No.3854 of 2014 (O&M)

Advanced Institute of Technology & Management-appellant (owner of the offending vehicle) has come up in appeal against the award dated 01.11.2013 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.4,26,0000/- has been awarded in favour of claimants-respondent Nos. 1 to 3 on account of death of Zile Singh in a motor vehicular accident which took place on 06.11.2010. Respondent No. 1 is father and respondent Nos. 2 & 3 are sons of deceased Zile Singh.

The appellant is challenging the finding given by the Tribunal, whereby insurance company has been absolved of its liability to make payment of compensation. Learned counsel for the appellant has argued that the insurance company has been wrongly exonerated from making payment to the claimants because at the time of alleged accident, the offending tractor-trailer, owned by the appellant, was insured with the insurance company-respondent No.5. (respondent No.3 in claim petition). Therefore, insurance company should have been held liable to make payment of compensation.

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. A perusal of the impugned award shows that while examining this issue, the Tribunal has held that claim petition against the insurance company-respondent No.3 (in claim petition) had already been dismissed vide order dated 28.11.2011 as the date of accident was not covered by the period mentioned in the insurance policy. Due to this reason, respondent driver and owner (respondent Nos.1 and 2 therein) were jointly and severally held liable to pay the compensation to the claimants. The order dated 28.11.2011 has never been challenged by the appellant by filing any revision or appeal. The impugned award has been passed on 01.11.2013. During this period, the appellant had ample opportunity to challenge the order dated 28.11.2011, whereby insurance company had been absolved of its liability to pay compensation.

Since the said order has attained finality, present appeal filed by the appellant (owner) is liable to be dismissed as no evidence has been led by the appellant to show that the vehicle was insured with IFFCO TOKIO General Insurance Company Limited. In the given circumstances, the Tribunal has rightly exonerated the insurance company from its liability. Driver and owner have been rightly held liable to make payment of compensation.

Resultantly, the present appeal being devoid of any merit, is hereby dismissed.

(RITU BAHRI)
JUDGE

17.10.2019
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No