

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 225

FAO-390-2014 (O&M)

Date of decision : 06.03.2019

Hardwari Lal

..... Appellant

VERSUS

Narinder Pal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. K. S. Yadav, Advocate, for the appellant.

Mr. Rajneesh Malhotra, Advocate, for respondent No. 4.

DEEPAK SIBAL, J. (ORAL)

The present appeal preferred by the owner of the vehicle which caused the death of one Hanish Arora in a motor vehicular accident is directed against the award dated 20.11.2013, passed by the Motor Accident Claims Tribunal (Fast Track Court), Bathinda (for short, the Tribunal).

The facts, in brief, are that on 19.06.2010, at about 10:30 a.m., Hanish Arora (now deceased) was going from Rampura to Bathinda on a motorcycle bearing registration No-PB-03S-1052. Hanish Arora was the pillion rider while Manpreet Singh was the driver. When they reached near the Petrol Pump on Lehra Mohabbat-Bathinda Highway, a Maruti Ritz car bearing registration No. PB-19E-6394 (for short, the offending vehicle) struck against their motorcycle, as a result of which both Hanish Arora and Manpreet Singh sustained multiple injuries. Hanish Arora died on the way to Adesh Hospital, Bhucho Mandi. Respondents No.1 to 3/claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988 seeking therein compensation. The Tribunal after concluding that the offending vehicle was being driven in a rash and negligent manner, assessed the payable

compensation and for the reason that the driver of the offending vehicle had not even produced his driving licence directed that the assessed compensation, alongwith interest, would be payable by the appellant who is the owner of the offending vehicle. Such direction of the Tribunal imposing the liability to pay the assessed compensation upon the appellant is under challenge in the present proceedings.

Learned counsel for the parties have been heard.

The appellant has been directed to pay the assessed compensation only on the ground that the driver of the offending vehicle had failed to produce his driving licence before the Tribunal.

Alongwith the present appeal the appellant filed an application to place on record additional evidence in the form of the insurance policy of the offending vehicle; driving licence of the driver of the offending vehicle and its registration certificate. On an earlier occasion, this Court had directed respondent No. 4-Insurance Company to verify the genuineness of the driving licence of the driver of the offending vehicle. Such verification done by the Insurance Company revealed that the driving licence of the driver of the offending vehicle was genuine. That being so, the assessed compensation cannot be imposed upon the appellant/owner especially when the Insurance Company has not disputed that the offending vehicle had been insured by it and that at the time of the accident in question there has been no violation of its terms by the appellant or the driver of the offending vehicle.

In view of the above, that part of the impugned award through which recovery rights have been granted to the Insurance Company to

recover the compensation assessed by the Tribunal from the appellant/owner is set aside.

However, the payable interest for the period that the present appeal remained pending before this Court shall be borne by the respondent no.4-Insurance Company and the appellant in the ratio of 50-50. Such a direction is being given for the negligence or lapse on the part of the appellant for not producing the driving licence of the driver of the offending vehicle before the Tribunal as also for the reason that the order sheets reveal that both parties have contributed to the delay in the disposal of this appeal.

The appeal is disposed of in the above terms.

06.03.2019
shamsher

[DEEPAK SIBAL]
JUDGE

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