

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

FAO No.1836 of 2016 (O&M)
Date of Decision: 30.01.2019

Santra Devi

...Appellant

versus

Suman and others

...Respondents

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present :- Mr. Kulvir Narwal, Advocate
for the appellant.

Mr. Rajneesh Malhotra, Advocate
for respondent No.5.

...

B.S. Walia, J (Oral)

1. Appeal has been filed by owner of vehicle No.HR46-B/7341, challenging recovery rights to the Insurance Company i.e. respondent No.5 herein, qua the compensation awarded to respondent Nos.1 to 4.
2. Learned counsel for the appellant by referring to Annexure A-5 i.e. statement of Shri Gulshan Chawla, Advocate, stated that Shri Gulshan Chawla, had tendered into evidence report Ex.R-2 sent by District Transport Officer, Farrukhabad, Uttar Pradesh directly to the Court, registered envelope Ex.R-3 and Insurance Policy of the offending vehicle as Ex.R-4 and closed evidence on behalf of respondent No.3, whereas objection in respect of report (Ex.R-2) for want of proof was raised on behalf of the appellant and the said objection was left open. Further the said objection is stated to have not been adjudicated upon by the learned Motor

Accidents Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal').

3. Learned counsel confines his arguments in the appeal to the prayer for remand of the matter for decision on the objection which was raised on account of mode of proof of report Ex.R-2, tendered on behalf of respondent No.3 i.e. respondent No.5 herein and thereafter finding qua right of recovery rights, if any, be given by the Tribunal.

4. Learned counsel for respondent No.5/Insurance Company states that the objection to report Ex.R-2, sent by District Transport Officer, Farrukhabad, Uttar Pradesh, for want of proof, was admittedly not decided.

5. In view of the position as noted above and to do substantial justice between the parties, I deem it appropriate to remand the matter to the learned Tribunal with a direction to consider and decide the objection as raised by the appellant to the exhibiting of report Ex.R-2, sent by District Transport Officer, Farrukhabad, Uttar Pradesh, as per law and give fresh finding with regard to grant of recovery rights, if any, in favour of the Insurance Company.

6. Accordingly, the appeal is disposed of. Parties through counsel are directed to put in appearance before the learned Tribunal on 01.03.2019. LCR, if any available, be remitted to the learned Tribunal well before the date fixed. Needless to mention, statutory amount deposited by the appellant be refunded, as per rules.

January 30, 2019

rajesh.k.khurana

Whether reasoned/speaking
Whether reportable

(B.S.Walia)
Judge

Yes/No
Yes/No