

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

245

FAO-2929-2016 (O&M)

Date of decision: 11.03.2019

NATIONAL INSURANCE CO LTD

... Appellant

Versus

SUNITA DEVI & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Lalit Garg, Advocate for the appellant.
Mr. Ashwani Arora, Advocate for respondents No.1 and 2.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 29.02.2016 passed by the Motor Accidents Claims Tribunal, Chandigarh whereby compensation has been assessed on account of death of Parveen Kumar in a motor vehicular accident on 26.05.2015.

Counsel for the appellant would inform that the instant appeal has been filed to assail findings of the Tribunal on issue No.1 as well as quantum of compensation assessed by the Tribunal. It is argued that Sohan Lal respondent No.1 before the Tribunal lodged DDR recording therein that accident took place due to a stray cow having suddenly appeared in front of the motorcycle driven by him on which Parveen Kumar was travelling as a pillion rider. It is further argued that the claimants examined Himanshu PW2 but name of Himanshu does not figure in DDR lodged at the behest of Sohan Lal. The Tribunal, in para 12 of the award, has also taken into consideration that respondent No.1 therein is facing trial for causing the accident but he never represented to any authority against his false implication. It is vehemently argued that this finding of the Tribunal is factually incorrect as neither any FIR was lodged in the case nor a report under Section 173 Cr.P.C. submitted on the basis of investigation, therefore, question of Sohan Lal facing trial does not arise in the given scenario.

After arguing for some time, counsel for the parties are ad idem that the award passed by the Tribunal may be set aside and matter be remitted to the Tribunal for decision of the case afresh on the basis of materials already on record.

In view of the above, appeal stands disposed of. Award passed by the Tribunal is set aside and the matter is remitted to the Tribunal for decision of the case afresh on the basis of materials already on record and additional evidence, if any, permitted to be adduced by the parties. Parties through their counsel are directed to appear before the successor Court of Sh. Paramjeet Singh, MACT, Chandigarh on 08.04.2019. The Tribunal shall decide the matter within six months of the parties putting in appearance. In the meanwhile, the insurance company shall not be entitle to recover the compensation already paid to the claimants.

11.03.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No