

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

FAO-6499-2015(O&M)

Date of Decision : December 04, 2019

ORIENTAL INSURANCE COMPANY LTD

.....Appellant

VERSUS

BALWINDER SINGH AND ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Ashwani Talwar, Advocate and
Mr. Aditya Ramyal, Advocate for the appellant.

Ms. Prayadeep, Advocate for
Mr. Ashwani Arora, Advocate
for respondent No.3.

NIRMALJIT KAUR, J. (Oral)

The present appeal has been filed by the appellant-Insurance Company against the compensation granted by the Motor Accident Claims Tribunal, SAS Nagar, Mohali (for short the 'Tribunal') vide award dated 1.8.2015.

Learned counsel for the appellant while praying for setting aside the award submitted that no amount could have been granted under Section 166 of the Motor Vehicle Act as there was no negligence.

Heard.

In the present case, the deceased was Gurdev Kaur, who was travelling alongwith 7 years old son of Gurdeep Singh as pillion rider. Respondent No.1, who was son of the deceased was driving the said vehicle.

The argument of learned counsel for the appellant-Insurance Company that it is the own case of the claimants that the accident occurred as the deceased struck into the speed breaker shows that on no account the driver can be held to be negligent. The said argument deserves to be rejected. It is apparent both from the DDR as well as the statements as referred by learned counsel for the appellant-Insurance Company that respondent No.1-Gurdeep Singh the driver of the motor cycle failed to see the speed breaker which in itself amounts to rash and negligent driving. The driver cannot take the plea that he did not see the speed breaker. Failure to see the speed breaker too is only either because the vehicle was being driven at a high speed or because the driver was totally absent minded and negligent.

In view of the above, the present appeal is dismissed being devoid of merit.

December 04, 2019
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(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No