

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

F.A.O No. 5842 of 2019

Date of decision:- 20.09.2019

Future Generali India Insurance Co. Ltd.

...Appellant

Versus

Suresh Kumar @ Sesi and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Rajesh Verma, Advocate
for the appellant

RITU BAHRI J. (Oral)

C.M. No. 19600-CII-2019

For the reasons mentioned in the application, delay of 60 days in filing of the appeal is condoned.

The application stands disposed of.

FAO No. 5842-2019

This appeal is by the insurance company disputing the liability foisted upon it by the Motor Accident Claims Tribunal, Fatehabad (for brevity, the tribunal'), vide its award/order dated 03.04.2019 whereby the appellant-Company (for short 'the appellant') was held liable to make the payment of compensation to the tune of Rs.08,44,444/- on account of death of Ram Kumar in a motor vehicular accident on 26.03.2018.

Learned counsel for the appellant is not disputing the accident in question however, he has argued that the complainant/eye witness in his first statement before the Police has alleged allegation of rash and negligent driving against Suman. However, before the Tribunal he has stated that the driver of the offending vehicle was Suresh Kumar @ Sesi, as Mrs. Suman

was not having driving licence.

The second argument of learned counsel for the appellant that the income has been taken by the Tribunal on the higher side.

With respect to first argument, it is rejected as reference can be made to cross examination of Sandeep-eye witness who stated that the distance between him and Ram Kumar was one and half/two acres. He had seen the car from a distance of about one hundred fifty/two hundred feet. The learned Tribunal has rightly given a finding that when an eye witness observes an accident from such a great distance, he can genuinely make a mistake about the identity of the person driving the vehicle.

Further the income has been rightly taken to be of Rs.8000/- per month, as the deceased was having agricultural land and workshop.

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

20.09.2019

G Arora

(***RITU BAHRI***)
JUDGE