

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

FAO-6982-2015(O&M)

Date of decision:-29.3.2019

Oriental Insurance Company Ltd.

...Appellant

Versus

Smt.Amarjit Kaur and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE H.S.MADAAN**

Present: Mr.Satpal Dhamija, Advocate  
for the appellant.

Mr.Himmat Singh, Advocate for  
Mr.Tarunvir Singh Lehal, Advocate  
for respondents No.1 to 3.

None for respondent No.4.

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**H.S. MADAAN, J.**

Briefly stated, facts of the case are, that on 10.2.2014 at about 5:30 p.m., Sarabjit Singh was unloading the truck at village Patti Guru Nanak Nagar, then the truck touched the electricity wires, resultantly Sarabjit Singh got electric shock and while being taken to Civil Hospital, Gurdaspur, he died on the way. On account of his death, his legal representatives i.e. Smt.Amarjit Kaur – wife, Master Harmanpreet Singh aged 4 years – son and Smt.Surjit Kaur – mother, had brought a claim petition under Section 163-A of the Motor Vehicles Act, 1988 against respondents i.e. Harpreet Singh owner and Oriental Insurance Company

Ltd. – insurer of truck bearing registration No.PB06-Q-1877 (hereinafter referred to as the truck in question) claiming compensation to the tune of Rs.12 lacs with interest and cost submitting that the deceased, who was aged about 26 years, was working as a driver on the truck in question and was in employment of respondent No.1 – Harpreet Singh – owner of the truck; that he used to earn Rs.3,200/- per month from that employment and that the claimants were fully dependent upon the earnings of the deceased.

On notice, both the respondents appeared and filed separate written statements.

In the written statement filed by respondent No.1 – Harpreet Singh, he admitted that the deceased was in his employment working as a driver on the truck in question and had died while unloading such truck at village Patti Guru Nanak Nagar when the truck had touched the electricity wires, however, he prayed for dismissal of the claim petition qua him.

In the written statement filed on behalf of respondent No.2 – insurance company, it took up various legal objections like the petition being not maintainable as deceased Sarabjit Singh had died due to his own negligence while driving the truck rashly and negligently and suffered electric shock, when the truck came into contact with the electric wires; that he was not a third party and no compensation is payable to his legal representatives under the Motor Vehicles Act; that the deceased was not holding any driving licence at the time of accident; that the truck in question was being plied in contravention of terms and conditions of the insurance policy etc. On merits, the material assertions in the claim

petition were denied and such respondent alleged that the claimants had filed the claim petition in connivance with respondent No.1 setting up a false and concocted story to get compensation from the answering respondent. In the end, such respondent prayed for dismissal of the claim petition.

On the pleadings of the parties, following issues were framed:-

1. Whether Sarabjit Singh s/o Narinder Singh, died on account of electric current and shock while he was on service of respondent No.1? OPP.
2. If issue No.1 is proved, whether claimants are entitled to the grant of compensation? If so, how much and from whom? OPP.
3. Whether the claim petition is not maintainable in the present form? OPR-2.
4. Whether deceased, who was driving the truck bearing registration No.PB-06-Q-1877 was not holding any driving licence at the time of alleged accident? OPR No.2.
5. Whether the respondent No.2 is not liable to pay any compensation to the claimants, as the respondent No.1 was plying the vehicle in contravention of terms and conditions of Insurance Policy? OPR-2.
6. Relief.

Both the parties led evidence in support of their respective claims.

In support of their case, the claimant No.1 had got her statement recorded as CW1 besides examining Sh.Inderjit Singh as CW2

and some documents were tendered in evidence.

On the other hand, respondent No.1 tendered in evidence photocopy of RC Ex.R4, copy of driving licence as Ex.R5 and copy of insurance policy Ex.R6.

After hearing arguments, the Tribunal decided issues No.1 to 3 in favour of the claimants, issue No.4 against the respondent No.2, issue No.5 against respondent No.2. Resultantly, while allowing the petition vide award dated 24.4.2015, the Tribunal granted compensation of Rs.4,23,000 along with interest @ 8% per annum from the date of filing of the petition till realization. The manner in which the compensation is to be apportioned is also given in the award.

Such award left the Insurance Company aggrieved and it has knocked at the door of this Court praying that the appeal be accepted and the award under challenge be set aside.

Notice of the appeal was issued to the respondents-claimants, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record and I do not find any merit in the present appeal.

Learned counsel for the appellant has contended that the deceased was not having a valid and effective driving licence and the truck was being plied in contravention of terms and conditions of insurance policy; that the appellant/respondent had taken up specific objections in that regard with respect to which issues No.4 and 5 were framed, however, the Tribunal wrongly decided such issues against the insurance company and those issues deserved to be decided in favour of

the insurance company and it should be absolved of any liability to pay compensation to legal representatives of the deceased.

Whereas learned counsel appearing for the respondents/claimants has contended that the issues were correctly decided by the Tribunal. In proceedings under Section 163-A of the Motor Vehicles Act any fault on the part of deceased is not to be taken into consideration and as has been rightly observed by the Tribunal that Section 163-A of the Motor Vehicles Act covers cases where even there is negligence on the part of the victim. It is a piece of welfare legislation. It was enacted by the Parliament to provide relief to the persons, who suffered injuries in the motor vehicular accident as well as to the legal representatives of the victims, who unfortunately lost their lives in such mishaps and that strict rules of evidence and procedure are not applicable there.

After hearing the rival contentions of learned counsel for the parties, I find that the Tribunal did not do anything wrong in deciding both the issues against the appellant – insurance company. Undisputedly, the aspect on account of whose negligence, the accident had taken place is not of much significance in proceedings under Section 163-A of the Motor Vehicles Act. The only thing to be seen is that a person had received injuries or had died while using a motor vehicle. In this case, the petitioners/claimants have specifically pleaded and proved on record that it was so. The deceased is said to have died while unloading the material from the truck in question and not while driving it, therefore, whether he possessed a legal and valid driving licence or not is not of much

importance, more particularly when respondent No.1 – owner of the truck in his written statement has admitted that the deceased was in his employment as a driver of the truck and had perished in the accident in question. Counsel for the appellant could not convince me as to how terms and conditions of the insurance policy were violated, resulting in the insurance company being absolved of its liability to pay compensation. The compensation has been worked out by the Tribunal adopting the structured formula and no fault can be found with the same. The Tribunal has dealt with all the aspects in detail in a proper and appropriate manner discussing the factual and legal position. I do not see any reason to disagree with the findings recorded by the Tribunal.

The findings recorded by the Tribunal are well reasoned and cannot be said to be arbitrary, erroneous or contrary to the evidence available on record. Therefore, there is no ground to set aside the award.

Finding no merit in the appeal, the same stands dismissed accordingly.

29.3.2019  
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**(H.S.MADAAN)**  
**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**