

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

FAO No.7924 of 2016 (O&M)

Date of Decision: 13.11.2019

Reshma and others

..Appellants

Versus

Kuldeep Singh and others

..Respondents

FAO No.2917 of 2016 (O&M)

New India Assurance Company Limited

...Appellant

Vs.

Smt.Reshma and others

...Respondents

CORAM: HON'BLE MS.JUSTICE RITU BAHRI

Present: Mr.S.N.Pillania, Advocate
for the appellants in FAO No.7924 of 2016
for respondents No.1 to 3 in FAO No.2917 of 2016.

Mr.Vinod Gupta, Advocate
for the appellant in FAO No.2917 of 2016.

Mr.D.K.Prajapati, Advocate for
Mr.Raghujeet Singh Madan, Advocate.

RITU BAHRI, J.

CM No.26720-CII of 2016

For the reasons mentioned in the application, delay of 158 days
in filing the appeal is condoned.

CM stands disposed of.

Main Case

FAO No.7924 of 2016 has been filed by the claimants against
the award of the Tribunal dated 04.02.2016 whereby compensation of

₹23,82,320/- has been awarded to the claimants on account of death of Ramphal who died in a motor vehicular accident which took place on 18.8.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 18.8.2014 at about 8 A.M. Ramphal alongwith his brother Raghubir went to village Morkhi, District Jind to meet their relatives on motor cycle bearing registration No.HR-33B-8765. On their return from village Morkhi, when they reached near pond of village Ram Nagar, a motor-cycle bearing registration No.HR-33B-9244 being driven by respondent No.1 in a rash and negligent manner, came from opposite side and struck directly against the said motor cycle of Ramphal. As a result of which Raghubir and Ramphal fell down on *pacca* road and Ramphal sustained grievous injuries. He was shifted to General Hospital, Jind from-where he was referred to PGIMS Rohtak but he succumbed to the injuries on the way. With regard to the alleged accident, FIR No.166 dated 18.8.2014 under Sections 279, 304-A IPC was registered against the respondents at Police Station Pillukhera. Consequently, the claimants being widow, daughter and son filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident occurred on account of rash and negligent driving of offending motor cycle driven by respondent No.1. The Tribunal had awarded compensation of ₹23,82,320/-/- alongwith interest @ 9% per annum from the date of filing of petition till its realization and all the respondents were held liable to make the compensation jointly and severally.

Feeling dissatisfied with the impugned award, the appellant-claimants has preferred the present appeal and the Insurance Company has also filed appeal against the award.

Heard learned counsel for the parties and perused the case file.

The short question for consideration in the present appeal is that FIR Ex.P1 was registered on 18.8.2014 i.e. the date when the accident took place and the informer in the FIR was Raghubir Singh and this witness after getting the FIR registered, made a supplementary statement on 22.9.2014 stating that the number of the vehicle is HR-33B-9244. The earlier number of the vehicle given by him was DL-55- T-9474 and after a gap of almost 34 days, the same informer Raghubir Singh gave a separate number of the offending vehicle. On 30.9.2014, recovery memo of this vehicle was made and this was made part of the challan. Argument of Insurance Company is liable to be accepted on the ground that after a gap of 34 days, the informer has given a separate number of the vehicle and number of the vehicle is different from all respects. It is not a case of clerical mistake or omission. The appeal of the Insurance Company is liable to be allowed only on this ground that there is 34 days delay in getting the number changed by the same witness and thereafter, after a gap of 68 days, the vehicle has been recovered. Therefore, the appeal of the Insurance Company is allowed and the appeal filed by the claimants is dismissed.

13.11.2019
Meenu

(Ritu Bahri)
Judge

Whether speaking/reasoned	- Yes/No
Whether Reportable	- Yes/No