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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6788 of 2019 (O&M)
Date of Decision: November 13, 2019

Reliance General Insurance Company Ltd.

..... Appellants(s)

Versus

Deepak Kumar and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sunil Kumar, Advocate
for the appellant.

*****

LISA GILL, J.

This appeal has been filed by the insurance company being aggrieved of award dated 08.08.2019, passed by learned Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal).

Brief facts necessary for adjudication of the case are that two claim petitions under Section 166 of the Motor Vehicles Act, 1988 were filed, one by the widow, two minor sons and aged parents of Balkar (deceased) seeking compensation on account of death of Balkar, due to the injuries suffered by him in the motor vehicle accident, which took place on 18.02.2017 and another by injured Deepak seeking compensation on account of injuries received by him in the said accident. It is pleaded in the claim petitions that on 18.02.2017 Balkar along with Deepak Kumar was returning to his village on motorcycle bearing registration No.HR-33D-

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5299. Balkar was driving the motorcycle at a moderate speed on the left side of the road and Deepak Kumar was the pillion rider. At about 6:45 P.M., when they reached ahead of Jamni Chowk, Pillukhera, a Tractor Trolley bearing registration No. HR-21-L-6864 loaded with sugarcane, was parked in the middle of the road by its driver – Subhash Chander, without there being any indicator or reflector or light etc. to warn the commuters of its presence. Even stones/bricks, branches of trees etc. were not placed near/behind the trolley. Balkar could not notice the tractor-trolley due to the aforesaid reason and reflection of lights of vehicles coming from opposite side and his motorcycle rammed into the offending vehicle from behind. As a result thereof, both occupants of the motorcycle fell down and received multiple grievous injuries. Injured were shifted to Government Hospital, Jind where Balkar was declared dead by the doctors. Compensation was, thus, claimed.

Learned Tribunal on considering the evidence on record concluded that Balkar lost his life and Deepak suffered injuries in the accident in question, which took place on 18.02.2017, due to the rash and negligent act of the driver of the offending tractor-trolley bearing registration No. HR-21L-6864, which was parked on the metalled road. As there is no challenge to the quantum of compensation, the details of the compensation awarded by the learned Tribunal are not being reproduced. Present appeal has been filed in respect to the claim petition filed by Deepak Kumar injured.

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Learned counsel for the appellant-insurance company fairly states that FAO No. 6644 of 2019, filed by the appellant in respect to the claim petition filed by the legal representatives of Balkar Singh on identical grounds has been dismissed by this Court on 06.10.2019. In the said appeal, the appellant-insurance company had sought exoneration from liability to pay compensation on the ground that the trolley attached with the tractor was not insured and in the alternate an element of contributory negligence was sought to be raised. Finding no merit therein, FAO-6644-2019 was dismissed on 06.11.2019. No additional plea has been raised in the present appeal.

Keeping in view the facts and circumstances of the case and particularly the dismissal of FAO No. 6644 of 2019, the present appeal which seeks to raise identical pleas, is dismissed for the detailed reasons given in the order dated 06.11.2019, which be read as part of this decision.

No other argument has been addressed.

Appeal is accordingly dismissed with no order as to costs.

(LISA GILL)
JUDGE

November 13, 2019.
Sunil

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No