

FAO No.6517 of 2017 (O&M)
Date of Decision: 21.11.2019

National Insurance Company Ltd.

....Appellant

Versus

Parkash Kaur and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Amit Kundra, Advocate, for the appellant.

Mr. Padam Kant Dwivedi, Advocate,
for respondents No.1 and 2.

NIRMALJIT KAUR, J. (ORAL)

CM-20947-CII-2017

For the reasons mentioned in the application, the delay of 86 days in filing of the appeal is condoned.

CM stands allowed.

Main appeal

The present appeal has been filed for setting aside the order dated 28.4.2017 passed by the learned Commissioner, the Employee's Compensation Act, 1923-cum-Assistant Labour Commissioner, Ferozpur, vide which, liability has been fastened upon the appellant-company.

While praying for setting aside the said order, learned counsel for the appellant submitted that deceased was admittedly sitting on the mudguard of the tractor and non-liability of the insurer in cases of accident that occurred while travelling on the mudguard of the tractor has been settled by the Hon'ble Apex Court in the case of Oriental Insurance Co. Ltd.

vs. Brij Mohan, 2007(7) SCC 56, National Insurance Co. Ltd. vs. Chinnama

and others, 2004(8) SCC 697 and New India Insurance Co. Vs. Darshana Devi, 2008(7) SCC 416, which were followed by this Court in case of Oriental Insurance Co. Ltd. vs. Gurmel Kaur and others, in FAO No.5063 of 2006 decided on 24.8.2010.

There is no dispute with the proposition of law. However, in the present case, it is admitted that the appellant has already deposited the amount of compensation before the authority and the recovery right to recover the amount of compensation from the owner and driver of the vehicle in question, were given to the appellant-company vide the impugned award dated 28.4.2017 itself.

In view of the above, no interference in the award dated 28.4.2017 is called for. The appeal is accordingly dismissed and the right of recovery is upheld. The amount shall be disbursed to the claimants.

(NIRMALJIT KAUR)
JUDGE

21.11.2019
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No