

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

FAO No.5889 of 2018 (O&M)
Date of decision : 11.03.2019

National Insurance Company Limited

...Appellant

Versus

Jasbir Kaur @ Balbir Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S. Sidhu, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM No.20595-CII of 2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 38 days in filing the present appeal is condoned.

Application is allowed.

Main case

Insurance Company is in the appeal against the award passed by the Motor Accident Claims Tribunal.

Learned counsel appearing for the appellant has submitted that the involvement of the vehicle in question which was insured with the company in the accident has not been proved. He drew attention of

the Court to the First Information Report recorded by the police on 01.05.2016 wherein Hardial Singh had claimed that he came to know of the accident at 5:00 AM although accident had taken place during night. Hence, he submitted that in absence of any eye-witness, neither it is proved that the offending vehicle was involved in an accident nor it is proved that the driver of the offending vehicle was driving the same in a rash and negligent manner.

Learned counsel for the appellant has very fairly admitted that when Hardial Singh appeared in evidence and had claimed that he was witness to the alleged aforesaid accident, he was not confronted with the copy of FIR during cross-examination. Still further, on the reading of the cross-examination, it is apparent that Hardial Singh has specifically stated that his signatures were obtained on the blank papers and initially SHO of the concerned Police Station had refused to register the FIR and thereafter he took the members of the Panchayat of the village to Senior Superintendent of Police on whose direction, the FIR was registered. It may be noted that the police after investigation has also found the offending vehicle to be rash and negligent and instrumental in causing accident which resulted into death. The police on completion of investigation has already filed challan. Still further, there is neither any allegations nor any evidence to prove that the aforesaid claim petition has been filed in collusion with the owner and driver of the offending vehicle.

Learned Motor Accident Claims Tribunal, on appreciation of evidence, has found that the offending vehicle was involved in an

accident. In appeal, unless the Court comes to a conclusion that the findings of the Tribunal are erroneous either on account of misreading of evidence or non-consideration of material evidence, the Appellate Court cannot interfere.

In view thereof, there is no ground to interfere.

Accordingly, the present appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

11.03.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No