

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

Date of decision: 20.01.2020

FAO No.766 of 2020 (O&M)

Reliance General Insurance Company Ltd. ...Appellant

Vs.

Chunni & others ...Respondents

FAO No.767 of 2020 (O&M)

Reliance General Insurance Company Ltd. ...Appellant

Vs.

Hakmuddin & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Subhash Goyal, Advocate, for the appellant.

RAJIV NARAIN RAINA, J. (ORAL)

1. This order will dispose of the aforementioned two appeals i.e. FAO No.766 of 2020 and FAO No.767 of 2020 arising out of a common award dated 03.10.2019 passed by the Motor Accident Claims Tribunal, Mewat (for short 'the Tribunal'). There were two deaths in a single accident.

2. I have heard Mr. Subhash Goyal, learned counsel appearing on behalf of the appellant/Insurance Company at some length and have perused the record placed on file and obviously the impugned award.

3. In the facts of the case I have no cogent reason to accept Mr. Goyal's submission that the quantum of compensation is excessive by the standards laid down in precedents. On a consideration of the matter, I find that the compensation has been assessed in conformity with the law settled by the Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, (2017) 16 SCC 680 on all the admissible heads of compensation. Even interest has been awarded @ 7.5% per annum, which is reasonable.

4. So far as the second issue is concerned regarding the offending tractor being plied for commercial purposes and not as per the policy of insurance signed for agricultural purposes, I find this issue has been dealt with on facts by the Tribunal in paragraphs 51 to 53 of the award. A finding of fact has been returned that at the time of accident, the trolley attached to the tractor was empty and was not being used for commercial purposes. The Tribunal has considered the testimony of witness PW-3 who stated that the tractor and its trolley were being plied on the fateful day.

5. However, there is a material fact in the FIR registered at the time of accident that there is no mention therein with regard to use of trolley along with tractor at the time of the vehicle meeting with the accident or in the final report presented under Section 173 Cr.P.C. in court. As to whether the trolley was attached to the tractor at the time of accident or not makes no difference when it was not in commercial use,

even if it was at any other time. On evidence, the fact determined by the Tribunal is that the trolley was not attached to the tractor as per the statement of PW-3. If we go by the statement/s (Mark R-1 & R-2) of the owner and the driver made in the Police Station to the effect that the trolley was attached and the tractor was on its way to fetch gravel is not an argument worthy of acceptance to discharge the Insurance Company from its liability to pay the compensation. These are statements made before the Police and have not to be accepted as credible as per the law of evidence and case law on the point.

6. Accordingly, both the appeals are sans merit and are ordered to stand dismissed.

20.01.2020
 Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>