

**FAO-6717-2015 with
Cross objection-23-2019
and connected case**

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

**1. FAO-6717-2015 with
Cross objection-23-2019**

National Insurance Co. Ltd.

.....Appellant

Versus

Santosh Kumari and others

.....Respondents

2. FAO-2613-2016 (O&M)

Aarti Gogna

.....Appellant

Versus

Santosh Kumari and others

.....Respondents

Date of decision: 05.03.2020

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present:- Mr. S.S.Sidhu, Advocate for the appellant
in FAO-6717-2015**

**Mr. H.S.Sehgal, Advocate for
Mr. Yogesh Putney, Advocate for the appellant
in FAO-2613-2016 and
for respondent no.3 in FAO-6717-2015**

**Mr. Ashwani Arora, Advocate for respondents
in both appeals**

ANIL KSHETARPAL, J.

**By this order two appeals and one cross objections filed
against a common judgment shall stand disposed of. Two appeals have
been filed by Insurance Company as well as the driver of the offending**

vehicle whereas cross objection has been filed by the claimants. Learned counsel for the appellants have submitted that in the FIR, registration number of the offending vehicle was not disclosed and presence of Rajnish Kalia, the alleged eye witness at the time of accident is doubtful. They have further submitted that Rajnish Kalia was never joined investigation by the police. They further relied upon report Ex.R-1 submitted by Central Forensic Science Laboratory, Chandigarh to contend that no fresh scratch/rubbing marks were found present on the offending car. They, hence, submit that the involvement of the vehicle is not proved.

This Court has considered the submissions, however, find no substance therein for the following reasons:-

i) It is undisputed that the offending vehicle was taken in possession by the police. Official of Central Forensic Science Laboratory, Chandigarh inspected the site of the accident and found skid marks of length about 18 feet x 10 inches of a four wheeler (car) however, the skid marks were never compared with the tyres of the offending vehicle that would have ruled out false implication.

ii) Appellant-Aarti Gogna (in FAO-2613-2016), the alleged driver of the vehicle has not appeared in evidence, therefore, adverse inference has to be drawn against her.

iii) Rajnish Kalia has appeared in evidence and supported the case of the claimants. Credibility of his statement could not be impeached in cross-examination. This witness has successfully

withstood the cross-examination. He is also not proved to be related to the deceased or the claimants.

iv) There is no reason as to why the claimants would make an attempt to falsely implicate the offending vehicle or its driver, particularly, when they are not known to each other.

Keeping in view the aforesaid facts, this Court does not find any good ground to interfere with the findings of fact arrived at by the Motor Accident Claims Tribunal (hereinafter referred to as the 'Tribunal').

As regards cross objections, learned counsel for the cross objector has prayed for enhancement of the compensation. The Tribunal has assessed the compensation at Rs.13,49,000/-. The deceased was unmarried and the claimants are his parents. The deceased was a diploma holder in mechanical engineering. Keeping in view the facts of the case, learned Tribunal has correctly assessed the compensation payable. Therefore, the appeals as well as cross objections are hereby dismissed.

05.03.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No