

FAO- 7525 of 2015 (O&M)
Date of Decision: 17.1.2020

Lakhwinder Singh

---Appellant

versus

New India Assurance Company Limited and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Sanjay Jain, Advocate
for the appellant**

**Mr. Suvir Dewan, Advocate,
for respondent No. 1**

Rekha Mittal, J.

Challenge in the present appeal has been directed against award dated 6.8.2015 passed by the Motor Accidents Claims Tribunal, SAS Nagar Mohali whereby compensation has been assessed on account of death of Lokinder Kumar in a motor vehicular accident that took place on 6.8.2013.

Counsel for the appellant would inform that as the appeal has been filed primarily to assail findings of the Tribunal qua right of recovery given in favour of the insurance company and he does not press the appeal qua quantum of compensation, service of respondents No. 3 to 6 may be dispensed with.

Ordered accordingly.

Counsel for the appellant would argue that Tribunal has given right of recovery to the insurance company only on the ground that offending vehicle did not have fitness certificate. It is further argued that

non-possessing of fitness certificate is not a defence available to the insurance company in view of provisions of Section 149(2) of the Motor Vehicles Act, 1988 (in short “the Act”).

PARAMJIT KAUR SAINI
20.01.2025
I attest to the accuracy and
integrity of this document

Counsel representing the insurance company is not in a position to refute this contention raised by the appellant.

The controversy raised in the present appeal is squarely covered in favour of the appellant by judgment of this court **Charanjit Singh and others vs. Harish Kumar Sachdeva and others 2018(4) RCR (Civil) 993**. That being so, right of recovery given in favour of the insurance company for want of fitness certificate can not be allowed to sustain and accordingly set aside. As a natural corollary, the insurance company shall be jointly and severally liable to pay compensation to the claimants.

No other point has been raised.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms. Statutory amount be remitted to the Tribunal for payment to the claimants.

(Rekha Mittal)
Judge

17.1.2020

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No