

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

FAO No. 7047 of 2019(O&M)

Date of decision: 27.1.2020

Universal Sompo General Insurance Co. Ltd.Appellant

VERSUS

Sajida and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

REKHA MITTAL, J.(Oral)

Challenge in the present appeal has been directed against award dated 20.07.2019 passed by the Motor Accidents Claims Tribunal, Mewat (in short 'the Tribunal') whereby compensation has been assessed on account of death of Sajid Khan in a motor vehicular accident that took place on 02.09.2018.

The sole submission made by counsel for the appellant is that in view of mechanical examination report dated 15.10.2018 marked as Ex.P6, there is no damage to the offending vehicle bearing No.HR-27-E-9600, thus, it falsifies story of the claimants that accident is the result of rash and negligent driving of offending vehicle. In addition, it is argued that as the accident took place in middle of the road as shown in the site plan prepared by the police during investigation of FIR lodged in regard to the occurrence, contributory negligence is liable to be attributed to the deceased.

Perusal of the award would reveal that claimants examined Vijay Kumar PW-3 to prove the manner in which the accident took place

attributing rashness and negligence to driver of offending vehicle namely Sahid Khan. Counsel for the appellant has failed to point out any materials elicited in cross examination of Vijay Kumar PW-3 that can show that his testimony is not worthy of credence or reliance or he is a witness introduced later in point of time. He has also failed to point out any materials to prove that offending vehicle was involved as a result of collusion between the claimants and owner or driver of offending vehicle. Vijay Kumar PW-3 is not even related to the claimants who appeared in the Court to prove version of the claimants in regard to the accident. Vijay Kumar had categorically stated that offending vehicle hit the car of deceased by coming on wrong side of the road. The mere fact that offending vehicle did not sustain any damage or as per the site plan prepared after the accident, accident took place in middle of the road are not the circumstances that will militate against negligence attributed to Sahid Khan. In the given circumstances, plea of the appellant that the present is a case of contributory negligence is also not tenable when otherwise no such plea of contributory negligence was raised before the Tribunal. In view of the above, I do not find any reason to interfere in well-considered findings recorded by the Tribunal determining issue No.1 in favour of the claimants and against respondents therein.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

JANUARY 27, 2020

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no