

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

**FAO No.441 of 2021 (O&M)
Date of Decision:29.06.2021**

GO DIGIT GENERAL INSURANCE LIMITED

....Appellant

VS

RAM KARAN AND ANR

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vishal Aggarwal, Advocate
for the appellant

SUDHIR MITTAL, J. (Oral)

The challenge in this appeal is to Award dated 03.01.2020 passed by the learned Motor Accident Claims Tribunal, Patiala whereby compensation of Rs.5,02,000/- along with interest has been awarded on account of death of Raksha Devi.

Learned counsel for the appellant has submitted that FIR registered after the accident shows that allegations of negligence were made against the Swift Car, which ran over Raksha Devi after she fell down from scooter. Thus, negligence was on the part of the driver of the said car and the appellant who is the insurer of the scooter on which Raksha Devi was riding pillion cannot be made liable. Shifting of stand is also not permissible as the FIR is against the driver of the Swift vehicle whereas the claim has been granted against the insurer of the scooter.

With the assistance of learned counsel for the appellant, I have gone through the record. Perusal of the award shows that the case of the owner of the scooter all along is that negligence was on the part of driver of the Swift vehicle.

Thus, it cannot be said that there is any shifting stand involved in this case.

The learned Tribunal has however, held on the basis of the evidence on record that negligence was on the part of the driver of the scooter because he was driving at a speed higher than that feasible under the traffic conditions.

The claim has been filed against the driver of the scooter as well as the insurer thereof and no infirmity apart from the aforementioned argument has been pointed out.

Thus, the appeal has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

29.06.2021
Poonam Negi

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No