

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(120)

FAO-721-2021 (O&M)

Date of Decision : August 09, 2021

ICICI Lombard General Insurance Company Ltd. .. Appellant

Versus

Shashi Bala and others

.. Respondents

(2)

FAO-722-2021 (O&M)

ICICI Lombard General Insurance Company Ltd. .. Appellant

Versus

Shashi Bala and others

.. Respondents

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajbir Singh, Advocate and
Mr. Sanjeev Goyal, Advocate, for the appellant(s).

HARSIMRAN SINGH SETHI J. (ORAL)

By this common order, two First Appeals, the details of which have been given in the heading of the order, are being decided as both the appeals relate to the same accident and have been filed against the same claimant, whose husband and daughter lost their life in the said accident.

CM-6599-CII-2021 in FAO-721-2021
CM-6601-CII-2021 in FAO-722-2021

Present applications have been filed for placing on record award dated 14.11.2019 as Annexure A-1.

Keeping in view the averments made in the applications, the same are allowed and award dated 14.11.2019 as Annexure A-1 is permitted

to be taken on record.

FAO-721-2021 and other connected case

As per the facts stated in the award under challenge, the accident took place between Car No. PB-22G-0299 and Bus No. PB-10DZ-9131 near Badowal, District Ludhiana. In the said car, Pardeep Kumar i.e. husband of respondent No.1, Ranjna daughter of respondent No.1 as well as one Monika wife of Rajesh Kumar were travelling and the said car was being driven by driver Nirmal Singh. All the occupants of the car unfortunately lost their lives in the said accident. Claimant filed claim petitions in respect of the death of her daughter namely Ranjna and her husband namely Pardeep Kumar. The Motor Accident Claims Tribunal, Fazilka gave an award on 17.03.2021 awarding a sum of Rs.21,57,700/- on account of the death of the daughter of the claimant namely Ranjna and the same Motor Accident Claims Tribunal, Fazilka granted a compensation of Rs.68,24,550/- in respect of the death of the husband of the claimant i.e. Pardeep Kumar.

Both the awards dated 17.03.2021 have been challenged by the Insurance Company in these appeals.

Learned counsel for the appellant(s) has argued that the accident took place due to the rash and negligent driving of the car by Nirmal Singh and there is no fault of the driver of the bus namely Charan Singh as, the car had collided with the bus from behind. In the present case, it is an admitted position that the driver of the bus has not been examined so as to prove the said fact that the accident occurred due to the negligence of the driver of the car.

As per the facts, which have found favour with the Motor Accident Claims Tribunal, the accident occurred due to the sudden applying of the brakes by the driver of the bus and the driver of the said bus has not been examined to rebut the said fact. Further, negligence being alleged upon the driver of the car in which both the deceased were travelling, has been dealt in extensive by the Tribunal and the findings, which have been returned by the Tribunal have been supported by the settled principle of law.

Learned counsel for the appellant(s) has not been able to show that the finding of the Motor Accident Claims Tribunal, Fazilka that the driver of the bus was negligent and had applied the brakes suddenly, which resulted into the occurrence of accident in which the husband and the daughter of the claimant died, were perverse to any evidence on record or the said findings were wrongly supported by the Tribunal on the basis of settled principle of law noticed in the award.

Further, the negligence being put upon the driver of the car by the learned counsel for the appellant(s) cannot come to rescue of the appellant in the present appeal for the reason that neither the daughter nor the husband of the claimant, who lost their lives in the ill fated accident, were the driver of the car, hence, the argument being raised to challenge the award of the MACT that the driver of the car, in which the husband and daughter of the claimant were travelling, was negligent, cannot bind the deceased daughter and husband of the claimant qua the grant of compensation so as to absolve the Insurance Company of its liability. The present appeals are not against the driver of the car against whom the negligence is being alleged, who also unfortunately died in the ill fated accident.

Learned counsel for the appellant(s) has not raised any argument so as to point out any error in the computation of compensation awarded by the Tribunal.

Once the deceased persons, in respect of whom the compensation has been awarded in favour of the claimant-respondent No.1 were not the driver and were travelling as passengers in the said ill fated car, the grounds being raised of negligence of driver of the car in these appeals so as to bound the passengers of the ill fated car in the said alleged negligence, cannot be accepted.

No other ground has been raised in the present appeal by the learned counsel for the appellant(s) during arguments.

Keeping in the view the facts and circumstances, no interference is called for in the award of the Tribunal dated 17.03.2021.

Accordingly, the appeals are dismissed.

As the main appeals have been dismissed, applications i.e. CM-6600-CII-2021 and CM-6602-CII-2021 have become infructuous.

August 09, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No