

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

**FAO No.1080 of 2021 (O&M)
Date of Decision:08.11.2021**

United India Insurance Co. Ltd.

VS

....Appellant

Geeta and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. R.C. Kapoor, Advocate
for the appellant

SUDHIR MITTAL, J. (Oral)

CM-8928-CII-2021

Allowed as prayed for. Exemption sought for is granted.

CM-8929-CII-2021

Allowed as prayed for. Delay of 22 days in re-filing the appeal is
condoned.

FAO No.1080 of 2021 (O&M)

This appeal has been filed challenging Award dated 24.03.2021 passed by the Motor Accident Claims Tribunal, Panipat, whereby the claim of the heirs of the driver of the offending vehicle under Section 163-A of the Motor Vehicles Act, 1988 has been allowed. The ground taken is that successors of the tortfeasor cannot be granted any compensation.

It has been submitted that the deceased person was the driver of the offending Scorpio vehicle. The said driver has been found negligent in driving the vehicle and causing death of some of the occupants thereof by causing an accident. Thus, his heirs would not be entitled to claim any compensation. The Tribunal has erred in allowing their claim petition.

Learned counsel for the appellant has cited judgments titled as

'National Insurance Company Limited vs. Sinitha and others' 2012(1) RCR(Civil) 205 and 'United India Insurance Company Limited vs. Sunil Kumar and another' 2018(1) RCR (Civil) 680.

The judgment in Sinitha (supra) supports the argument of learned counsel for the appellant whereas the judgment in Sunil Kumar (supra) is against him. Judgment in Sunil Kumar (supra) is by Three-Judges Bench and is a later decision and thus, the same will prevail.

According to the said judgment, negligence of the driver of the offending vehicle cannot be taken as a defence by the Insurance Company in a claim petition filed under Section 163-A of the said Act.

Thus, the appeal has no merit and is dismissed.

**(SUDHIR MITTAL)
JUDGE**

08.11.2021
Poonam Negi

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