

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 3021 of 2021 (O&M)

Date of Decision: 15.11.2021

United India Insurance Company Limited

... Appellant(s)

Versus

Surasti and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Anil Mehra, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The insurance company assails the correctness of the award dated 20.08.2021 passed by the Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as “the Tribunal”) while allowing the claim petition, filed under Section 166 of the Motor Vehicles Act, 1988.

2. In the automobile accident, Sh. Hari Ram lost his precious life. The Tribunal, after considering the evidence, has found that late Sh. Hari Ram (the driver of the motorcycle) was also contributory negligent in causing the accident. The Tribunal has reduced the compensation by 30%.

3. The learned counsel representing the appellant does not challenge any other finding arrived at by the Tribunal. He contends that the contributory negligence should have been 50:50.

4. As per the police report, the accident took place in the middle of the road which had no divider. The respondent No.1 was driving the motor car that met with an accident. The driver of the motor car being in a bigger vehicle, was required to be more careful. Furthermore, the Tribunal, on appreciation of the evidence, has found out that the deceased had contributory negligence in causing the accident to the extent of 30%.

5. The learned counsel representing the appellant further contends that the car was damaged from the left hand side, therefore, the deceased must have been driving on the wrong side.

6. The arguments of the learned counsel does not have any substance because there is no evidence to the effect that the deceased-Sh.Hari Ram was driving on the wrong side. The motorcycle and the car were coming from the opposite directions. As per the police report, the accident had taken place in the middle of the road. Therefore, it is not possible to conclude that the deceased-Sh. Hari Ram was the only person who was driving on the wrong side. The damage to the left side of the car can take place either because of the fact that Sh. Hari Ram was driving on the wrong side or the car had deviated towards the wrong side of the road. In absence of material to prove that late Sh. Hari Ram was driving his motorcycle on the wrong side, it will not be appropriate to record such a conclusion.

7. Keeping in view the aforesaid facts, in the absence of the evidence to prove that the deceased had equally contributed in the accident, no interference in the finding of the fact recorded by the Tribunal is called for. Hence, the present appeal is dismissed.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

November 15, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No