

In the High Court of Punjab and Haryana, at Chandigarh

**1. F.A.O. No. 2699 of 2018 (O&M) And
XOBJC No. 158-2019 (O&M)**

Gurdev Kaur and Another
... Appellant(s)

Versus

Jeera Devi and Others
... Respondent(s)

**2. F.A.O. No. 2713 of 2018 (O&M) And
XOBJC No. 159-2019 (O&M)**

Gurdev Kaur and Another
... Appellant(s)

Versus

Vikas Sahni and Another
... Respondent(s)

**3. F.A.O. No. 2716 of 2018 (O&M) And
XOBJC No. 160-2019 (O&M)**

Gurdev Kaur and Another
... Appellant(s)

Versus

Gango Devi and Others
... Respondent(s)

**4. F.A.O. No. 2718 of 2018 (O&M) And
XOBJC No. 157-2019 (O&M)**

Gurdev Kaur and Another
... Appellant(s)

Versus

Sudha Devi and Others
... Respondent(s)

**5. F.A.O. No. 2720 of 2018 (O&M) And
XOBJC No. 162-2019 (O&M)**

**F.A.O. No. 2699 of 2018 (O&M) AND XOBJC No. 158-2019 (O&M) 2
and Other Five Connected Cases**

Gurdev Kaur and Another

... Appellant(s)

Versus

Kranti Devi and Others

... Respondent(s)

AND

6.

F.A.O. No. 947 of 2020 (O&M)

The New India Assurance Company Limited

... Appellant(s)

Versus

Kajal Devi and Others

... Respondent(s)

DATE OF DECISION: 12.08.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sanjeev Patyal, Advocate
for the appellant(s) (Except FAO-947-2020).

Mr. Ankur Gupta, Advocate
for the respondents/cross-objector(s) (Except FAO-947-2020).

Mr. Lalit Garg, Advocate
for the Insurance Company (Except FAO-947-2020).

Mr. Deepak Suri, Advocate
for the appellant (In FAO-947-2020).

Anil Kshetarpal, J.

1. This order shall dispose of FAO No. 2699, 2713, 2716, 2718
& 2720 of 2018 and 947 of 2020 and Cross-objections No. 158, 159, 160,
157 and 162 of 2019, respectively. All these appeals and cross-objections
arise from an unfortunate accident which took place on 23.03.2011 snuffing
out six human lives.

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and Other Five Connected Cases**

2. Late Sarv Shri Sukhdev Singh, Rajesh Sahni, Kallu Sahni, Dharminder Sahni, Dhuro Sahni and Tinku Sahni lost their lives, whereas there were certain others who were injured. One set of claim petitions was decided by the Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as “the Tribunal”) on 30.09.2015, whereas the second set of claim petitions has been decided on 04.11.2019.

3. As per the findings arrived at, these workers except one were travelling in a Jeep (Max) bearing registration No. PB-08-BD-7631, driven by Kuldeep Singh. The Jeep is owned by Smt. Gurdev Kaur, respondent herein. It has been found that the workmen were working in Sangha Farm run by the family of Smt. Gurdev Kaur. After finishing the work, the workmen were being ferried from the Farm House to the residence of the workers. On the one hand, the Tribunal has, vide award dated 30.09.2015, totally absolved the insurance company on the ground that the workmen were travelling in a goods vehicle and therefore, the insurance company is not liable to first pay to the claimants and then recover from the owner and driver. Whereas in the subsequent judgment, the Tribunal has held that the insurance company is liable to pay in the first instance and then recover the amount from the owner. While delivering the later judgment, the Tribunal has relied upon the judgment passed by the Supreme Court in *Anu Bhanvara Etc. v. IFFCO Tokio General Insurance Company and Others* 2019 SCCOnLine 1006. However, there is no dispute with regard to the finding of the Tribunal in all these cases that the workmen were being ferried from the workplace to their residence. In such circumstances, in the

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under:

“Whether the deceased died during the course of their employment? If the answer to the aforesaid question is in affirmative, then what will be its impact?”

4. Furthermore, it has been noticed that the Tribunal, while delivering the judgment on 30.09.2015, has failed to grant benefits on account of increase of the income in the future as held by a five Judges’ Bench in *National Assurance Company Limited v. Pranay Sethi and Others 2017 (4) RCR (Civil) 1009*.

5. Keeping in view the aforesaid facts, it is considered appropriate to remit all the cases to the Tribunal for re-deciding the cases after granting appropriate opportunities to the parties to lead further evidence.

6. With these observations, all these appeals are disposed of. The parties, through their counsel, are directed to appear before the Tribunal on 31.08.2021. The District Judge is requested to either decide all these cases himself or assign it to one of the Presiding Judges of the Tribunal. Let the matter be re-decided within a period of two months positively.

7. The miscellaneous application(s) pending, if any, pending in the appeals as well as cross-objections shall also stand disposed of.

**(Anil Kshetarpal)
Judge**

August 12, 2021
“DK”

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