

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

FAO No. 994 of 2018 (O&M)

DATE OF DECISION :- December 02, 2021

Surinder Kumar and others

...Appellants

Versus

Sukhchain Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

Present:- Mr. Ashwani Arora, Advocate for the appellants.

Mr. Rajbir Singh, Advocate for the respondents.

On account of death of Smt. Manju, stated to be aged about 49 years, working as a teacher besides engaged in other avocation, in a motor vehicular accident which took place on 28.7.2014 at about 1.00 a.m., in the area of Mehlan Chowk Road, Sangrur statedly on account of rash and negligent driving of Truck bearing registration No. HR37-A-4504 by respondent No. 1 Sukhchain Singh, legal representatives of deceased namely her husband Sh. Surinder Kumar, son Jashan and another son Gautam, who was minor at that time, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against Sukhchain Singh driver and Baldev Singh-owner of the truck in question. Notice of that claim petition was given to both the respondents but they did not turn up to offer a contest, as such Motor Accident Claim Tribunal, Bathinda vide Award dated 15.1.2016 had accepted the claim petition and awarded compensation of Rs.15,25,000/- with interest and costs to the claimants payable by both the respondents jointly and severally.

Not satisfied with the amount of compensation awarded to them by the Motor Accident Claim Tribunal, Bathinda, the claimants have knocked at the door of this Court by way of filing an appeal. During the course of proceedings the appellants had moved an application under Order 1 Rule 10 read with Section 151 CPC to implead insurance company of the truck in question as respondent No. 3. Notice of that application was given to the Insurance Company, which has put in appearance, that application has been allowed.

I have heard learned counsel for the appellants and learned counsel for the Insurance Company besides going through the record.

Learned counsel for the appellants has contended that since driver and owner of the truck involved in the accident had been proceeded against ex-parte before the Tribunal, therefore, the claimants could not come to know about the particulars of the Insurance Company with which the truck was insured at the relevant time and now it has come to their knowledge that as a matter of fact truck was insured with Shri Ram General Insurance Company Limited at the time of accident, impleading of that Insurance Company is necessary for proper adjudication in the matter necessitating moving of application in question which as a matter of fact has been accepted by the coordinate Bench where the matter was pending earlier vide order dated 1.11.2019 and proposed memo of parties has been taken on record. With Insurance Company having put in appearance before this Court it needs to be given an opportunity to file written reply to the claim petition and then to contest the petition on merits. An opportunity of leading evidence also deserves to be granted to the Insurance Company which can be best done before the Tribunal.

Under the circumstances, the appeal in question is disposed of. Resultantly, the impugned Award is set aside and the matter is remanded to Motor Accident Claim Tribunal, Bathinda with a direction to allow the Insurance Company to file written reply to which the claimants can file rejoinder and then after framing of issues sufficient opportunities be given to lead the evidence and then to pass fresh Award in the matter in view of the evidence available on record. Since the incident relates to the year 2014 and about 7 years have passed since then, as such the Tribunal is directed to make earnest efforts to conclude the proceedings and pass fresh Award expeditiously preferably within a period of six months from the date of receipt of copy of this order there. The parties through their counsel are directed to appear before the Tribunal on 16.12.2021. The Registry is directed to send back the lower Court record there immediately. Since respondents No. 1 and 2 had been proceeded against ex-parte there is no necessity of issuing fresh notice to them by the Tribunal.

(H.S. MADAAN)
JUDGE

December 02, 2021

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No