

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

146

1. FAO-356-2022 (O&M)
Date of Order:28.03.2022

KOTAK MAHINDRA GENERAL INSURANCE COMPANY LTD.

..Appellant

Versus

MUSTAK AND ANR

..Respondents

2. FAO-359-2022 (O&M)

KOTAK MAHINDRA GENERAL INSURANCE COMPANY LTD.

..Appellant

Versus

RUKSHANA AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajbir Singh, Advocate
for Mr. Sanjeev Goyal, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

While assailing the correctness of the award passed by the Motor Accident Claims Tribunal in the connected claim petitions, the Insurance Company has filed these appeals. The two claim petitions under Section 166 of the Motor Vehicles Act, 1988, were filed by Ms. Rukshana and Mustak, respectively. It is their case that Rukshana along with Mustak was going from Village Dongra Ahir to Village Bocharia on motorcycle bearing No.HR-19C-8253. On 05.03.2018, at about 05:00 p.m., when they reached near the Indane Gas Agency, a Swift car bearing No.HR-26BZ-7475, driven by Parveen in a rash and negligent manner struck against the

motorcycle resulting in grievous injuries to them. The Tribunal after appreciating the evidence has awarded Rs.1,00,962/- to Mustak and Rs.6,27,669/- to Rukshana.

The learned counsel representing the appellant contends that there is an unexplained delay of seven days in registration of the FIR and therefore, the offending vehicle bearing No.HR-26BZ-7475, has been wrongly implicated.

The learned counsel representing the appellant has drawn the attention of the Court to the statement of Ms. Rukshana who has stated that the police recorded her statement in Nan Lal Hospital, Rewari, on the date of accident i.e. 05.03.2018. It is also not in dispute that Mustak and Rukshana were admitted in the hospital on the day the accident took place. The police visited the hospital on the same day but failed to record the FIR. Hence, the delay in filing the FIR can be viewed with suspicion particularly when the police failed to register the FIR. The Insurance Company has not led any evidence to prove that the offending vehicle bearing No.HR-26BZ-7475, was not involved in the accident or it has been falsely implicated.

The learned counsel representing the appellant further contends that Mustak has stated that his statement was recorded by the police after a period of 10-15 days. The aforesaid statement is obviously incorrect because on the statement of Mustak, the FIR was registered on 12.03.2018. The Mustak remained admitted in the Hospital for a period of more than one month.

In view thereof, no ground to interfere is made out.

Dismissed.

The amount Rs.25,000/- deposited in the Court while filing the appeal be remitted to the Tribunal for disbursement.

All the pending miscellaneous applications, if any, are also disposed of.

March 28th, 2022

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(ANIL KSHETARPAL)
JUDGE

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