

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-564 of 2022 (O&M)
and 2 other connected cases
Date of decision: 13.09.2022

Bajaj Allianz General Insurance Company Limited

..Appellant

Versus

Satwanti and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vishal Aggarwal, Advocate, for the appellant.

ANIL KSHETARPAL, J(Oral)

This order shall dispose of three connected appeals filed challenging the correctness of a common award passed by the Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') while deciding three claim petitions filed on account of three deaths.

The accident in question took place on 16.11.2018, when the car bearing registration No.DL-9CAN-9304, driven by Sh. Kuldeep hit a motorcycle and consequently, the aforesaid motorcycle hit another motorcycle resulting in loss of three precious lives. The Tribunal has assessed the compensation after finding that Sh. Kuldeep, the driver of the car was driving rashly and negligently, at the relevant time of accident.

The learned counsel representing the appellant contends that car bearing No.DL-9CAN-9304 was falsely implicated as in the FIR which was registered on 17.11.2018, neither the registration plate number of the car nor its colour was disclosed. He submits that as per the case of the claimants, the owner and driver of the car came to them on 15.02.2019 in

order to settle the dispute. He submits that such an explanation is neither plausible nor acceptable.

In order to verify the correctness of the aforesaid contention, the record of the Tribunal was requisitioned.

Mr. Manoj Kumar, the alleged eye witness has appeared as PW5. He has stated that he was travelling on a separate motorcycle. His brother-in-law and two more persons died in the accident. He states that Sh. Kuldeep was driving the offending vehicle in a very rash and negligent manner. The learned counsel representing the Insurance Company and respondent no.1 and 2 (driver and owner of the offending vehicle) were given an opportunity to cross-examine the witness. On reading of the cross-examination, it is evident that except a bare suggestion that the aforesaid car has been falsely involved in the case and the deceased had consumed alcohol, there is no substantive cross-examination of the witness. The claimants have also produced mechanical inspection report carried out by the police. On the basis of the aforesaid material evidence and particularly when Sh. Kuldeep has already been challaned and is facing criminal prosecution in view of the rash and negligent driving, the Court has passed the award. It is well settled that the claim petitions filed under the Motor Vehicles Act, 1988 are required to be decided on preponderance of probabilities. The Insurance Company could have examined the Investigating Officer or even summoned Sh. Kuldeep, the driver of the offending car in order to prove that the vehicle was falsely involved.

The learned counsel representing the Insurance Company could also have cross-examined the eye witness fiercely in order to dig out the truth. In the absence thereof, the Tribunal has already taken a plausible

view.

Hence, no ground to interfere is made out.

All the three appeals are dismissed.

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

September 13, 2022

(ANIL KSHETARPAL)
JUDGE

nt

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>