

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.293

FAO NO.2818 of 2020 (O&M)
Date of Decision: 14.10.2022

United India Insurance Co.Ltd.
through its manager

.... Appellant

Versus

Smt. Kavita Devi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Parvinder Singh Bedi, Advocate
for the appellant.

Ms. Garima Modi, Advocate for
Ms. Rose Gupta, Advocate
for respondents No.1 to 4.

None for respondents No.5 and 6.

TRIBHUVAN DAHIYA, J. (ORAL)

This appeal has been filed by the Insurance Company against the award dated 28.11.2019 passed by Motor Accident Claims Tribunal, Hisar, on the ground that involvement of the offending vehicle in the accident in question has not been established on record before the Tribunal, and, therefore, the findings on Issue No.1 holding the accident to have been caused due to rash and negligent driving of respondent No.1/driver-Ranbir deserve to be set aside.

2. Learned counsel for the appellant has argued that the offending vehicle was planted one month after the accident and was not the vehicle actually involved in the accident.

3. A perusal of the findings of the Tribunal on Issue No.1 establishes that the eye witness, PW-2, has duly proved the factum of

accident caused due to rash and negligent driving of the offending vehicle, which led to the death of Raj Kumar. At the time of accident, he was going along with the deceased on his own motorcycle. He himself received multiple serious injuries. The police recorded the statement of the eye witness in the Civil Hospital on the next day, i.e., 14.11.2017. Registration number of the offending vehicle was disclosed in his statement, which is exhibit R-1. Further, PW-3, Criminal Ahlmad from the Court of Sub Divisional Magistrate, Hansi, brought the record pertaining to FIR No.350 dated 14.11.2017, registered under Sections 279, 304-A of IPC at PS Sadar, Hansi, titled as *State v. Ranbir*. It is also brought on record that charges were framed against the accused in the criminal case on 20.03.2018 after filing of the report under Section 173 Cr.P.C. (Ex.PW3/B). There is no evidence to the contrary on record. Respondent No.5/driver did not even step into the witness box to rebut the claimant's evidence, nor any evidence was led by the appellant-insurance company to establish that the offending vehicle was not involved in the accident.

4. In view of the above, no exception can be taken to the finding of the Tribunal on Issue No.1 holding that the accident in question has been caused by respondent No.1/driver while driving the offending vehicle rashly and negligently.

5. Petition stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

14.10.2022
Maninder

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