IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-2849-2020(O&M)
Date of decision: 06.08.2022

NATIONAL INSURANCE COMPANY LTD. **..Appellant**

Versus

MANJU DEVI AND ORS **..Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Punit Jain, Advocate
for the appellant.

Ms. Kuljeet Kaur, Advocate
for Mr. Mamta Panwar, Advocate
for respondent No.1 to 5.

Mr. Ishan Khangwal, Advocate
for respondent No.6 and 7.

<u>ANIL KSHETARPAL, J(Oral)</u>

1. While assailing the correctness of award passed by Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal'), Sonepat, Haryana, the Insurance Company has filed the present appeal.

2. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with the record of the Tribunal, which was requisitioned.

3. The learned counsel representing the appellant contends that the FIR was registered on the statement of Sh. Manoj Kumar (deceased's brother-in-law) at 01:15 a.m. (late at night) on 19.03.2019, without disclosing the registration plate number of the motor car which was alleged to have caused the accident which took place at 08:50 p.m. On 18.03.2019. He submits that as per the deposition of Head Constable Sunil Kumar, the Investigating Officer, when he visited the place of accident, neither Sh. Manoj Kumar nor Sh. Shivo Yadav were present and Sh. Shivo Yadav

arrived on the spot at about 02:00 a.m. He hence, submits that the insured vehicle has been falsely implicated in order to get the amount of compensation from the Insurance Company.

4. On the other hand, the learned counsel representing the claimant contends that the owner and driver of the offending vehicle (motor car) while filing the reply, have admitted to the occurrence of accident.

5. As per the case of the claimants, Sh. Sunil Kumar was hit by a motor car that was coming from behind. At that time, Sh. Sunil Kumar was accompanied by Sh. Shivo Yadav and Sh. Manoj Kumar who were riding their respective bicycles. The wheel of the offending vehicle ran over Sh. Sunil Kumar's head resulting in his death on the spot. The FIR was registered at 01:15 a.m. on 19.03.2019 i.e. within three hours from the occurrence of the accident. Sh. Shivo Yadav came on the spot at 02:00 a.m. and stated that the accident has been caused by HR-10AG-0415. Ex.P-3 is the copy of his statement given to the Police at 02:00 a.m. Sh. Shivo Yadav appeared as PW-2. He supported the case of the claimants while asserting that after the accident happened, the car driver stopped but when he started to look after the deceased who was grievously injured, the driver of the car ran away from the spot of accident. The learned counsel representing the Insurance Company while putting searching questions thoroughly cross-examined the witness. However, he failed to impeach his credibility. The Investigating Officer HC Sunil Kumar appeared as PW-3 and stated that at 02:00 a.m. on 19.03.2019, Sh. Shivo Yadav submitted an application Ex.P-3 disclosing the registration plate number of the motor car (the offending vehicle). The Insurance Company did not produce any evidence to prove

that the accident did not occur with the motor car bearing No. HR-10AG-0415.

6. The claim petition is required to be decided on preponderance of probabilities. In the present case, the Insurance Company has failed to produce sufficient material evidence to prove that the motor car was falsely involved in the case.

7. As regards the argument of the learned counsel representing the appellant that while registering the case, Sh. Manoj Kumar did not disclose the registration plate number of the offending vehicle, it may be noted that Sh. Manoj Kumar is brother-in-law of Sh. Sunil Kumar (deceased). He is likely to be under a shock on account of death of his brother-in-law (sister's husband). Sh. Shivo Yadav informed the Police about the registration plate number of the offending vehicle just after 45 minutes of the police reaching at the spot of the accident.

8. Hence, the argument of the learned counsel representing the Insurance Company is unreasonable, unworthy and insubstantial.

9. Consequently, no ground to interfere is made out.

10. Dismissed.

11. The office is directed to remit the statutory amount to the Executing Court for its disbursement.

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

August 06th, 2022 **(ANIL KSHETARPAL)**
Ay **JUDGE**

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