

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

213

FAO-3781-2008 (O&M)
Date of decision: 07.07.2022

UNITED INDIA INS. COMPANY LTD.
Versus

..Appellant

SMT. SANTOSH AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravinder Arora, Advocate
for the appellant.

Mr. Kamal Mor, Advocate
for respondents No.4, 7, 8, 10, 12, 13,
14, 15, 16 and 20.

Mr. A.S. Prajapati, Advocate
for Mr. Anshuman Dalal, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

The Insurance Company while disputing its liability to pay the amount of compensation awarded by the Motor Accident Claims Tribunal (hereinafter referred to as “the Tribunal”), has filed the present appeal.

On 26.04.2007, Sh. Anup Singh along with his father Sh. Rajinder Singh and one Sh. Rattan Singh after doing labour work in the farm of Sh. Surajmal were coming back in a tractor trolley which was driven by Sh. Narender Singh. A wild animal suddenly appeared in front of the tractor and the driver in order to save the animal took a sharp turn resulting in turning the tractor upside down. Sh. Anup Singh unfortunately died as he fell underneath the tractor, whereas, other passengers received multiple injuries due to the said occurrence.

The Tribunal has assessed the compensation of Rs.3,40,000/-. The Insurance Company assails the correctness of the compensation so assessed.

The learned counsel representing the Insurance Company has contended as under:-

i. The Insurance Company is not liable because Sh. Anup Singh was travelling as a passenger while sitting on the mud-guard of the tractor, i.e. at a unsafe place. Because he was sitting on the mud-guard, consequently, the Insurance Company is not liable.

This Court has examined the statement of Sh. Rajinder Singh son of Sh. Rattan Singh (the deceased's father). He was travelling in the same tractor trolley. It has come in evidence that they were returning from the fields in a tractor trolley driven by Sh. Narender Singh. Therefore, they were travelling during the course of employment.

On a careful reading of the claim petition, it is evident that Sh. Anup Singh was sitting on a proper seat which is placed over the metal cover of rear wheel of the tractor, which is large enough to properly accommodate a passenger.

Such seat is meant for passengers only. The mud-guard of a tractor of a rear wheel is not a mud-guard known in the common sense/layman sense but is fabricated from a large steel frame.

Hence, no ground to interfere is made out.

Dismissed.

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

July 07th, 2022

Ay

**(ANIL KSHETARPAL)
JUDGE**

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