

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

244

FAO-3383-2016

Date of decision: 21.07.2022

Kush Kumar and another

.....Appellants

Versus

Taj Travels Private Limited and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Arnav Sood, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.2-insurance company.

MANJARI NEHRU KAUL, J. (ORAL)

The instant appeal has been filed by the appellants/claimants to impugn the award dated 02.03.2016 passed by learned Motor Accidents Claims Tribunal, Pathankot (for short, 'the Tribunal') wherein their claim petition filed under Section 166 of the Motor Vehicles Act, 1988 was dismissed.

Learned counsel for the appellants submits that the other claim petitions filed by other claimants pertaining to the deaths of other passengers travelling in the offending vehicle were allowed whereas the claim petition filed by the appellants/claimants was dismissed. Learned counsel submits that even though the facts and circumstances were identical, still the Tribunal had gravely erred in dismissing their claim petition.

Learned counsel prays that the instant appeal be remanded back to the learned Tribunal for deciding it afresh on merits else the appellants who are parents of deceased Varun Sharma would be

deprived of their rightful claim of compensation.

Learned counsel for the insurance company does not oppose the submissions made by the counsel opposite. Learned counsel has also not been able to controvert the submissions made by the counsel opposite that the claim petitions qua the other similarly situated claimants stand allowed. Learned counsel does not oppose the prayer made by the counsel opposite for remanding the case back to the Tribunal for deciding it afresh on merits.

I have heard learned counsel for the parties and perused the material placed on record.

The provisions of compensation under the Motor Vehicles Act, 1988 being a social welfare legislation coupled with the fact that admittedly other claim petitions arising out of the same accident stand allowed by the Tribunal concerned, this Court deems it appropriate to remand the matter back to the Tribunal concerned for its decision on merits afresh after giving due opportunity of leading evidence to both sides.

As a sequel to the above, the instant appeal is allowed and the impugned award dated 02.03.2016 is set aside. The matter is remanded back to the Tribunal concerned to decide the matter afresh after giving due opportunity of leading evidence to both sides.

Parties are directed to appear before the Tribunal concerned on 30.08.2022.

21.07.2022

Vinay

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No