

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

**CM-11762-CII-2022 in/and
FAO-1407-2017 (O&M)**

Date of Decision: September 15, 2022

Yashpal

...Appellant

VERSUS

Santosh Kumari and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Rajesh Bansal, Advocate
for the appellant.

Mr.Pankaj Mehta, Advocate
for the applicant-respondent No.4.

ARCHANA PURI, J.

In the main appeal, CM-11762-CII-2022 has been filed by applicant-respondent No.4-Insurance Company for preponement of date fixed in the appeal and for disposal of the appeal, in terms of the compromise/settlement reached between the appellant i.e. owner-cum-driver of the offending vehicle and the Insurance Company i.e. respondent No.4.

The main case is stated to be fixed for 15.12.2022. Keeping in view the averments made in the application, the main appeal i.e. FAO-1407 of 2017, is taken up for hearing today itself.

It is submitted that vide impugned Award dated 02.09.2015, while granting compensation to the extent of Rs.14,59,000/- to the claimants, the respondents i.e. owner-cum-driver as well as Insurance

Company, were jointly and severally held liable, to pay the aforesaid compensation. However, the Insurance Company was also held entitled to recover the amount from the insured-respondent No.1, after making payment to the claimants, under the provisions of Section 174 of the Motor Vehicles Act.

Feeling aggrieved by the aforesaid Award, claimants had also filed an appeal for enhancement i.e. FAO-644-2016, titled Santosh Kumari vs. Yashpal and another, which has since been dismissed by this Court vide order dated 23.08.2018.

Present appeal has been filed by Yashpal, who was impleaded as respondent No.1 before the Tribunal, in the capacity of being owner-cum-driver of the truck bearing registration No.HP-12D-6146. Now, during the pendency of the aforesaid appeal, a compromise has been effected between the parties and the Insurance Company has paid the compensation, so awarded and also waived its right to recover the amount from the appellant-owner-cum-driver. In this pretext, the appeal is sought to be disposed of.

In view of the settlement, so reached, between the parties, the present appeal, as such, is partly accepted and the respondent No.4- Insurance Company is held not entitled to effect recovery of the awarded amount from the appellant, in the capacity of being owner-cum-driver of the offending vehicle.

September 15, 2022
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No