

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

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**FAO-4491-2022 (O&M)
Date of decision: 17.10.2022**

New India Assurance Company Ltd.**...Appellant**

Versus

Sneh Lata @ Nitu and others**...Respondents****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Harsh Aggarwal, Advocate
for the appellant/Insurance Company.

ARVIND SINGH SANGWAN, J. (Oral)

Challenge in this appeal is laid to the award dated 08.08.2022, passed by the Motor Accident Claims Tribunal, Chandigarh (*for short 'the Tribunal*), vide which an amount of Rs. 15,00,000/- along with interest @ 9% per annum was awarded to respondent Nos. 1 to 3/claimants.

Learned counsel for the appellant/Insurance Company has challenged the findings of the Tribunal only on issue No. 1 regarding rash and negligent driving of vehicle bearing registration number HP-13-4388 by respondent No. 1 as well as towed vehicle bearing registration number PB-65-F-9553 by respondent No. 4.

Brief facts of the case are that on 28.01.2018, at about 6:45 PM, on bypass road Sarpron near Dominos committee parking, Solan when deceased Jaswinder Singh was crossing the road, suddenly vehicle No. HP-13-4388 while towing Car No. PB-65F-9553 being driven in rash and

negligent manner, without any indicator or horn, crushed Jaswinder Singh under the tyres of the car. Injured Jaswinder Singh was taken to the Regional Hospital, Solan, where he was declared brought dead. A criminal case was registered against both the drivers of aforesaid offending vehicles. Respondent Nos. 1 to 3/claimants, who are wife, daughter and son, (respectively) of the deceased, filed the aforesaid claim petition, which was partly allowed by the Tribunal and the aforesaid amount was granted to them as compensation.

Learned counsel for the appellant has argued that the Tribunal has not properly appreciated the evidence while deciding issue Nos. 1 and 2. It is argued that it has come in the statement of PW-2 Ajay Sharma, an independent eye-witness, who was following the vehicle, that it was a slow moving traffic and suddenly, deceased Jaswinder Singh, while crossing the road came under the towed vehicle and was crushed by the said car.

Learned counsel further submits that the statement of the aforesaid witness would suggest that it was a fault of deceased himself and not the driver of the pick up vehicle or the towed vehicle.

Learned counsel for the appellant has further submitted that the said witness has categorically stated about the manner in which the accident occurred. In cross-examination by the counsel of the Insurance Company, this witness denied that he was not present at the spot. This witness has further given complete details of the manner in which the accident was caused. It is further submitted that during the cross-examination by the counsel of RW-1/respondent No. 5, the owner of the towed vehicle, a suggestion was given that no accident has taken place between towed

vehicle bearing registration number PB-65-F-9553 and the pick up vehicle bearing registration number HP-13-4388, however, this witness denied such suggestion.

Learned counsel for the appellant has further referred to the statement of RW-1 Anil Kumar Sood, owner of the towed vehicle, who in his examination-in-chief has stated that no accident has taken place with the vehicle owned by him and the FIR has falsely been registered by the claimants. However, in cross-examination, this witness has admitted that he is registered owner of vehicle bearing registration number PB-65-F-9553.

Learned counsel for the appellant has also referred to the statement of RW-2/respondent No. 2 Akash Thakur, who has though denied the accident in his examination-in-chief but has admitted in cross-examination that he is the registered owner of vehicle bearing registration number HP-13-4388 and stated that respondent No. 1 was the driver of the vehicle, against whom FIR Ex. PW-3/1 was registered and thereafter, challan was also filed in Court.

I have heard learned counsel for the appellant at length.

It is a matter of fact that neither the driver of the pick up vehicle nor of the towed vehicle were examined by any of the respondent including the appellant/insurance company to rebut the evidence of the claimants regarding the manner in which the accident has taken place. The statement of PW-2, the eyewitness, goes unrebutted qua the manner in which the accident was caused due to rash and negligent driving of the respondent Nos. 1 and 4. There is nothing on record to suggest that both the drivers ever challenged their implication in the FIR case by alleging false

implication. Therefore, in the absence of any such evidence, especially in view of the fact that an FIR has already been registered against respondent No. 1, the driver of the pick up vehicle, this Court finds no ground to interfere with the findings of the Tribunal on issue No. 1. No other argument is raised.

Accordingly, the present appeal is dismissed.

17.10.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No