

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

Decided on : 12.07.2022

FAO-9193-2014

New India Assurance Co. Ltd.

..... Appellant

Versus

Puran Singh and others

..... Respondents

FAO-9194-2014

New India Assurance Co. Ltd.

..... Appellant

Versus

Dhanpati and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashwani Talwar, Advocate with
Mr. Gandharv Malhotra, Advocate
for the appellant.

None for the respondents.

Manjari Nehru Kaul, J.(Oral)

This order shall dispose of two appeals i.e. FAO No.9193 and 9194 of 2014 as both of them have been filed against the award dated 06.08.2014 passed by the Motor Accident Claims Tribunal, Kaithal. Brief facts of the case are taken from FAO No.9193 of 2014.

Instant appeal has been filed by the appellant-Insurance Company challenging the award dated 06.08.2014 passed by Motor Accident Claims Tribunal, Kaithal (hereinafter called as 'the Tribunal') in the claim petition under Section 166 of Motor Vehicles Act wherein the following compensation was assessed and awarded to injured claimants on

account of injuries received by them in an accident on 18.04.2012:-

Compensation awarded to Puran Singh

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	For admission in the hospital from 18.04.2012 to 23.04.2012 and from 24.06.2013 to 28.06.2013 and 31.03.2014 to 03.04.2014	Rs.28,000/-
2	For pain and suffering	Rs.50,000/-
3	For keeping attendant, special diet and transportation	Rs.25,000/-
4	For disability	Rs.8,000/-
5	For medicines etc.	Rs.1,96,468/-
6	Loss of earning	Rs.20,000/-
	Total compensation	Rs.3,27,468/-

Compensation awarded to Dhanpati

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	For admission in the hospital from 18.04.2012 to 21.04.2012	Rs.8,000/-
2	For pain and suffering	Rs.15,000/-
3	For keeping attendant, special diet and transportation	Rs.10,000/-
4	For disability	Rs.8,000/-
5	For medicines etc.	Rs.2,070/-
	Total compensation	Rs.51,070/-

The amount of compensation along with interest @ 9% p.a. from the date of filing of the petition till its realisation, was ordered to be paid jointly and severally by respondents No.1 and 2, which was to be indemnified by respondent No.3-Insurance Company.

As per the pleaded case of the claimants-injured, claimant Puran Singh was riding his motorcycle, wife of Puran Singh, claimant-injured Dhanpati and one Ramesh Kumar were pillion riding when tractor

trolley bearing registration No.HR-08M-3656 (hereinafter referred to as 'offending vehicle') came from the opposite side and collided with their motorcycle. Resultantly, both the claimants i.e. Puran Singh and his wife Dhanpati suffered multiple and serious injuries. Both the claimants were treated at PGI, Chandigarh and operated upon there. FIR No.38 dated 04.05.2012 under Sections 279, 337 and 338 IPC was registered at Police Station Sadar, Kaithal.

The appellant-Insurance Company has challenged the impugned award primarily on the ground that the involvement of the offending vehicle was highly suspect, which found credence from the fact that FIR No.38 was lodged after 15 days of the accident in question i.e. on 04.05.2012 and that too against unknown driver of the offending vehicle. It was further submitted that the claimant-injured Puran Singh was riding the motorcycle with two pillion riders i.e. his wife Dhanpati and Ramesh Kumar, which was in violation of the traffic rules. Hence, they were not entitled to any compensation. It was also submitted that as per the claim petition, the offending vehicle i.e. tractor had a trolley attached with it and the motorcycle had hit the trolley. Since the Insurance company had not charged any premium from the driver or the owner of the offending vehicle for the trolley and it was only the tractor, which was insured with it, the insurance company could not be fastened with the liability to indemnify the claimants. It was also prayed that in the alternative at best the liability, if any, could not be fastened beyond 50% on the insurance company.

Heard learned counsel and perused the impugned award passed by the Tribunal.

The contention of the Insurance Company with respect to the delay in lodging of the FIR and that too against unknown person is devoid of any merit. Admittedly, the injured claimants received multiple and serious injuries for which they were immediately removed to the hospital where they were operated upon. It has come during evidence that both the injured claimants were unconscious and unfit to make a statement when the police reached the hospital. Hence, the delay, if any, would not in any manner put the case of the claimants under a scanner.

The next contention of the appellant that since only the tractor was insured with it and the trolley had been attached with the tractor, which was not insured with it, would not come to its rescue as the insurance company has failed to prove that the tractor trolley was being used otherwise than for agricultural purposes.

The impugned award does not reflect any error much less illegality, which would warrant any interference.

Accordingly , the instant appeals stand dismissed.

12.07.2022
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(MANJARI NEHRU KAUL)
JUDGE

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