

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.765 of 2020(O&M)
Date of decision:16.03.2022

United India Insurance Company Limited

...Appellant

Versus

Saroj and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Satpal Dhamija, Advocate
for the appellant.

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

While calling into question the correctness of the award passed by the Motor Accidents Claims Tribunal, Panipat, the appellant (Insurance company) has filed the appeal.

Learned counsel representing the appellant states that he does not dispute the quantum of the amount of compensation assessed. He further submits that the driver of the offending vehicle (canter truck bearing no.HR-67A-3344) has been changed/replaced. While elaborating, he submitted that RW1, the owner of the offending vehicle, was examined by the Insurance Company and he produced the driving licence of Jagroop son of Kishan Lal, resident of Kharhatti Mohal, Gopiganj, Uttar Pradesh.

This court has considered the submission, however, finds no substance therein.

When the claim petition was filed, respondent no.1 was

impleaded as Raju @ Rajesh @ Jagroop son of Krishan Lal, resident of Geeta Colony, Noorwala, Panipat.

The driver was served with a notice of the claim petition, however he failed to appear. The Insurance Company examined Sh. Vinod Kumar son of Deshraj on its behalf. He, on appearance, produced a copy of the driving licence of Jagroop son of Kishan Lal.

Learned counsel representing the Insurance Company did not question the witnesses on this aspect of the matter. In such circumstances, in the absence of the cogent evidence, it would not be possible for the Appellate Court to interfere.

The appellant-Insurance Company has also filed an application under Order 41 Rule 27 CPC for permission to lead additional evidence. The appellant wishes to produce and prove the alleged investigation report dated 20.09.2019 and the proceedings in the criminal case.

This Court has gone through the report. It is evident that the approved Insurance investigator visited Geeta Colony, Panipat and reported that no person with the name of Raju @ Rajesh @ Jagroop is residing at the given address. The aforesaid proposed evidence does not advance the case of the appellant. There is another report with the information that Raju @ Rajesh @ Jagroop is not the resident of Kharhatti Mohal, Gopiganj, Uttar Pradesh. Such reports submitted by an agent of the Insurance Company are not sufficient to hold that Raju @ Rajesh @ Jagroop son of Kishan Lal is not one and the same person.

With regard to the proceedings in the criminal case arising from FIR No.311, dated 30.10.2016, registered under Section 279, 337 and 304A IPC, at Police Station, Sadar Panipat, with regard to the accident in question,

Rajesh son of Kishan, resident of Geeta Colony, Noorwala, Panipat, is the driver of the canter/truck. As per the report produced by the Insurance Company, even Rajesh son of Kishan Lal never resided on the given address.

In view thereof, there is no definite material to prove that Raju @ Rajesh @ Jagroop are different persons.

Dismissed.

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

March 16, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No