

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-11257-CII-2019 &
CM-11258-CII-2019 in/&
FAO-3299-2019 (O&M)
Date of Decision :15.02.2023

IFFCO-TOKIO General Insurance Co. Ltd

...Appellant

Versus

Nafis and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Parvez Chugh, Advocate
for the appellant-Insurance Company.

* * *

Harsimran Singh Sethi, J. (Oral)

In the present appeal, the challenge is to order dated 07.03.2019 passed by the Motor Accident Claims Tribunal, Panipat by which, the claimants have been held entitled for compensation to the tune of Rs.10,14,822/- on account of death of one person namely, Amit.

Learned counsel for the appellant-Insurance company argues that in the present case though, an FIR was registered qua the said accident being FIR No.574 dated 07.09.2012 under Sections 279 and 337 of the IPC which deals with the accident, but driver of the offending truck has been acquitted by giving benefit of doubt hence, the grant of compensation in the present case on the basis of the accident wherein, driver has already been acquitted of the negligence, the award passed by the tribunal is bad and is liable to be set aside.

I have heard learned counsel for the appellant-Insurance

Company and have gone through the record with his able assistance.

In the present case, an accident took place wherein, a person namely, Amit lost his life is a conceded fact. The tribunal in para-8 of the judgment has given details of the evidence, which has come on record to prove the factum of accident and the involvement of the truck No.HR-45-2925 in the accident, which statement of eye-witness namely, Pawan could not be disputed. That being so, once an evidence has come on record before the Motor Accident Claims Tribunal and the said testimony is of an eye witness and an author of the FIR, it cannot be said that there was no evidence before the Tribunal to record the finding that accident took place on 06.09.2012, which involved truck No.HR-45-2925, in which accident one person namely, Amit lost his life hence, there is no perversity in the facts recorded by the tribunal

Learned counsel for the appellant submits that another victim, who had suffered injuries namely, Pardeep was not examined before the tribunal as well as before the criminal Court which shows that allegations were false. Merely, one victim has not been examined or the said victim did not come forward for recording of his testimony does not mean that evidence of other witness, which has already come on record loses significance. Once an eye-witness has already recorded his testimony supporting the accident involving a particular vehicle in question, non-examination of another victim of the same accident cannot give a cause to the appellant-Insurance company to say that the allegations being alleged in the FIR or the facts stated by the eye-witness to the accident i.e. Pawan are false.

Learned counsel for the appellant further submits that the name

of the driver was not given in the FIR.

Once during the investigation certain facts have come, which have been relied by the tribunal, the non-recital of a particular fact in the FIR cannot be treated as perversity as certain facts do come on record during the investigation of the case, which fact is corroborated by the testimony of the eye-witness namely, Pawan. Hence, there is no perversity in the findings recorded by the tribunal.

No other argument has been raised.

Learned counsel for the appellant-Insurance Company has not been able to point out any perversity in the findings recorded by the tribunal hence, no interference is called for by this Court and the appeal is accordingly dismissed.

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Applications are also dismissed accordingly.

February 15, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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