

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

FAO-3871-2022 (O&M)

Date of Decision : 05.01.2023

The Oriental Insurance Co. Ltd.

....Appellant

VERSUS

Ms. Sonia and Others

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

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ALKA SARIN, J. (Oral)

The grievance of the appellant-Insurance Company in the present appeal is that the deceased, who was driving the vehicle, was under-age. Learned counsel for the appellant has further contended that the accident took place on account of the sole negligence of the deceased. He has further pointed out to the cross-examination of the mother of the deceased to contend that she had stated in her cross-examination that her son (the deceased) was less than 18 years of age.

Heard.

In the present case the post mortem report Ex.P/2 clearly mentions the age of the deceased as 18 years. The portion of the cross-examination being referred to by the learned counsel for the appellant reads as under :

“I do not have any proof regarding the age of my deceased son today. I do not know the owner name of vehicle No.HR-02Y-7065. I am not the eye witness of

alleged accident. Deceased Nitesh was studying in 10+1 in Vivekanand Public School HUDA, Sector 17, Jagadhri and he was 17 years completed of his age at the time of accident. I do not have any documentary proof regarding the expenditure of Rs.One Lakh on funeral of Nitesh.”

A perusal of the above reproduced portion of the cross-examination clearly reveals that the same is being misinterpreted by the learned counsel for the appellant inasmuch as it has been stated therein by the mother of the deceased that he had completed 17 years which would obviously indicate that he was 18 years of age. There is no other evidence on the record which would even remotely indicate that the age of the deceased was less than 18 years.

In view of the above, I do not find any merit in the present appeal, which is accordingly dismissed. Pending applications, if any, also stand disposed off.

January 05, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO