

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

FAO No. 1032 of 2016 (O&M)

DATE OF DECISION :- March 27, 2023

Dhiraj Gupta

...Appellant

Versus

Darshana Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Viren Jain, Advocate for the appellant.

Mr. Ravinder Arora, Advocate
with Mr. Neeraj Khanna, Advocate for respondent No. 4.

Ms. Sushma Sharma, Advocate
for Mr. Ramesh Sharma, Advocate for respondent No. 5.

Mr Munish Puri, Advocate has filed vakalatnama for
respondents No. 1 to 3, which be taken on record.

Briefly stated the facts of the case are that on account of death
of Dalip Chand in a motor vehicular accident which took place on 9.6.2010
in the area of Industrial Area, Chandigarh statedly on account of rash and
negligent driving of truck No. HR-38-7683 by respondent No. 1 Sunil Dutt,
such truck belonging to Dhiraj Gupta respondent No. 2 and insured with The
Oriental Insurance Company Limited, Chandigarh, legal representatives of
such deceased namely Darshana Devi and others had brought a claim
petition under section 166 of the Motor Vehicle Act, 1988 against such
driver, owner and Insurance Company of truck No. HR-38-7683.

That claim petition after contest by the respondents was accepted by Motor Accident Claims Tribunal, Pathankot and vide Award dated 9.7.2013 and compensation of Rs.5,13,500/- was granted to the claimants payable by respondents No. 1 and 2 jointly and severally whereas respondent No. 3 Oriental Insurance Company was exonerated for the reason that the truck in question was not insured with it at the relevant time.

Feeling aggrieved by the said Award Dhiraj Gupta respondent No. 2 in the claim petition has approached this Court by way of filing an appeal notice of which was given to the respondents who have put in appearance through counsel.

During the course of arguments and while going through the record it comes out that there has been little confusion with regard to the registration number of the truck which had caused the accident. According to the claimants the registration No. of the truck was HR-38-7683 which probably was picked up from the F.I.R registered with regard to the accident otherwise in the remaining documents the registration of the truck is mentioned as HR-68-7683. The revision petitioner states that he is not owner of the truck bearing registration No. HR-38-7683. Though he concedes ownership of truck having registration No. HR-68-7683 contending that he had got the truck insured with respondent No. 3 Oriental Insurance Company Limited, Chandigarh and this very number is mentioned in the insurance policy. On account of a little carelessness on the part of the claimant while getting claim petition drafted, the whole confusion has arisen. Therefore, I find it proper and appropriate to dispose of the appeal inasmuch as impugned Award is set aside and case is remanded to Motor Accident Claims Tribunal, Pathankot granting liberty to the claimants to

correct registration number of the truck by moving an appropriate application there. Thereafter the respondents would be given opportunity to file fresh written statements and then on getting rejoinder if any and framing of issues the parties would be afforded sufficient opportunities to lead evidence and thereafter fresh Award be passed by the Tribunal. Since the case is quite old, inasmuch as the accident had taken place on 9.6.2010 and Award was passed on 9.7.2013, the Tribunal is directed to complete the proceedings expeditiously preferably within a period of six months from the date of receipt of copy of this order there. The parties through counsel are directed to appear before the Motor Accident Claims Tribunal, Pathankot on 18.4.2023. The Registry is directed to return the original record to Motor Accident Claims Tribunal, Pathankot in the meanwhile well before 18.4.2023.

(H.S. MADAAN)
JUDGE

March 27, 2023

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No