IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 09.02.2023

1. FAO No.6862 of 2016 (O&M)

ICICI Lombard General Insurance Company Limited **..... Appellant**

Versus

Angrej Singh and others **..... Respondents**

2. FAO No.7150 of 2016 (O&M)

ICICI Lombard General Insurance Company Limited **..... Appellant**

Versus

Balkar Singh and others **..... Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Sandeep Suri, Advocate
for the appellant (in both appeals).

Mr. Vipin Mahajan, Advocate
for respondent No.1 (in both appeals).

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HARSIMRAN SINGH SETHI, J.(ORAL)

CM-24497-CII-2016 in FAO-7150-2016

This is an application for condonation of delay of 147 days in re-filing the appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 147 days in re-filling the appeal is condoned.

Main Cases

Vide this common judgment, two appeals bearing FAO No.6862 of 2016 and FAO No.7150 of 2016 which arise out of the same

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incident, the details of which have been given in the heading, are being decided.

For the purpose of this order, the facts are being taken from FAO-6862-2016.

As per the facts mentioned in the present appeal, the claimants are the victims who suffered injuries in an accident which took place on 16.07.2008. Certain facts were mentioned in the claim petition filed before the Motor Accident Claim Tribunal so as to claim that the respondents who were driving the Innova car bearing registration No.CH03-U-5175 drove the said car in a rash and negligent manner which act on their part has caused the accident wherein, Angrej Singh and Balkar Singh fell down and received multiple grievous injuries. It is further mentioned that for the said accident, an FIR No.63 dated 26.07.2008 under Sections 279, 337, 338 and 427 of the IPC was registered against respondent No.2-Harpal Singh, who was driving the Innova car.

Keeping in view the said injuries suffered by the victims, claim petition was filed by both the injured-victims claiming compensation on account of rash and negligent driving on the part of respondent No.2-Harpal Singh, who was driving the Innova car which had hit the motor-cycle being driven by the claimants from behind. Keeping in view the evidence which had come on record, Motor Accident Claim Tribunal, Gurdaspur awarded compensation to the claimants-victims, vide Award dated 04.02.2016. As per the Award dated 04.02.2016, Angrej Singh was awarded a sum of Rs.2 lakhs for the injuries and for the pain and suffering, whereas the other claimant-Balkar Singh was awarded a sum of Rs.75,000/-, which award is under challenge in the present first appeal.

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Learned counsel for the appellant(s) argues that while recording the finding that respondent No.2-Harpal Singh who was driving the Innova car was negligent, the Tribunal ignored the factum that while registration of the FIR for the said accident, there was no mention of rash and negligent driving by Harpal Singh though other serious allegations were levelled against the said driver.

Learned counsel for the appellant further submits that the claim petitions were filed after a period of 5 years of the accident which itself shows that the said claim of the respondents was bogus and the same was raised only with the connivance of the driver (Harpal Singh-respondent No.2) of the offending vehicle so as to make the Insurance Company liable for payment of the compensation.

Learned counsel for respondent No.1 submits that the findings which have been recorded by the Tribunal in the present case is on the basis of the evidence which had come on record including the statements of the claimants and other witnesses and after taking into consideration the FIR in question hence, the grounds being raised by the appellant-company to avoid/escape their liability as passed by the Motor Accident Claim Tribunal may kindly be rejected.

I have heard learned counsel for the parties at length and has gone through the record.

The first argument which has been raised by learned counsel for the appellant-Insurance Company is that two different stands have been taken by the claimants-victims before the Criminal Court and Motor Accident Claim Tribunal, which fact itself shows that the claim of the victims is bogus and their claim should have been rejected by the Tribunal.

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Learned counsel for the appellant submits that once while recording the FIR, there was no mention of the rash and negligent driving by Harpal Singh-driver of the offending vehicle, treating the incident as an accident and that too by putting the allegation of negligence upon the driver of the offending vehicle, is contrary to the facts on record hence, the award dated 04.02.2016 is liable to be set aside.

In this regard, it may be noticed here that the FIR is only a version which is recorded for investigation of a criminal case. The mere allegation mentioned in the FIR cannot be treated as truth so as to deny or accept any claim. It is a conceded position that after registration of the said FIR in question, the police investigated the allegation and challan was submitted under Sections 279, 337, 338 and 427 IPC which all sections of the IPC relates to the accident with regard to driving of a vehicle in a rash and negligent manner. Once facts mentioned hereinbefore is a conceded position, accepting the statement of the witness by the Motor Accident Claim Tribunal qua the said facts, same cannot be treated as arbitrary or illegal or perverse in any manner. The mere fact that rash and negligent driving was not mentioned in the FIR in question, will not oust the claimants from raising a claim under the Motor Accident Claim Tribunal. Hence, as no discrepancy has been pointed out qua the facts and evidence on record and the discrepancy being pointed out by learned counsel for the appellant is minor and will not change the nature of evidence, the same is liable to be rejected and is accordingly rejected.

Learned counsel for the appellant further submits that the claim was raised by the claimant after a period of 5 years. Nothing has been mentioned as to what prejudice has been caused to the appellant with

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respect to the rasing of the claim by the claimants after a period of 5 years. Learned counsel for the appellant concedes that no interest has been given to the claimants on the amount of compensation so as to cause any prejudice upon the appellant-company for the said delay. That being so, merely that the claim was raised after a period of 5 years, cannot be a ground to oust the claimants from claiming the compensation under Motor Accident Claim Tribunal, especially when, the facts and evidence which had already come on record proving the entitlement of the claimants for the grant of compensation.

Keeping in view the above discussion, no interference is called for by this Court in the present appeals and the same are accordingly dismissed.

CM-23894-CII-2016 in FAO-6862-2016
CM-24498-CII-2016 in FAO-7150-2016

These applications are for stay of execution of the award. As both appeals are dismissed, hence, applications are also dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

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Whether speaking/reasoned Yes / No

Whether Reportable Yes / No

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