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

204

FAO-2395-2017 (O&M)
Date of decision: 20.07.2023

ORIENTAL INSURANCE COMPANY LTD

....Appellant

Versus

ANMOL & ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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Present : Mr. Vinod Chaudhri, Advocate
for the appellant.

Mr. Joginder Sharma, Advocate
for the respondents.

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ANIL KSHETARPAL. J.(Oral)

1. This appeal has been filed by the Insurance Company to challenge the correctness of the award passed by Motor Accident Claims Tribunal, Ludhiana on 06.12.2016. The Tribunal has awarded a sum of Rs.1,00,000/- along with the interest from the date of filing of the petition till the recovery thereof. The Tribunal has found that the accident had taken place due to rash and negligent driving of Charan Singh. Tribunal directed the Insurance Company to pay Rs.1,00,000/- along with interest at the rate of 8 per cent per annum.

2. This Bench has heard learned counsel representing the parties at length and with their able assistance perused the paperbook.

3. Learned counsel representing the appellant submits that no accident

had taken place in the manner projected by the claimant as neither any FIR has been registered nor any information from the three hospitals where the injured remained admitted was received by the Police. He submits that as per the protocol, it is the duty of the hospital to inform the Police if someone comes for the treatment, on account of injury suffered in an automobile accident.

4. On the other hand learned counsel representing the respondents submits that the accident has been proved by examining Baljit Singh, the claimant's father.

5. This Court has considered the submissions of learned counsel representing the parties.

6. It is not mandatory to lodge an FIR in order to maintain a claim petition filed under the Motor Vehicles Act, 1988. This can be one of those circumstances which will be appreciated by the Court in the facts and circumstances of each case. In this case, a 12 year old young girl suffered grievous injuries. She was going from her village Gara walking towards the bus stand. She was hit by the motorcyclist namely, Charan Singh. She was immediately moved to the Civil Hospital, Phillaur. However, taking note of critical condition, she was referred to Arora Hospital, Ludhiana which in turn referred her to Christian Medical College, Ludhiana. She remained admitted in Christian Medial College for a period of one week. The Insurance Company has not produced any evidence to prove that the accident had not taken place. In fact, Insurance Company did not produce any evidence.

7. Learned counsel representing the Insurance Company despite the opportunity to cross-examine the eye-witness, has failed to impeach his credibility. Moreover, Charan Singh has also appeared in evidence.

8. The Tribunal on preponderance of possibilities has held that the accident took place due to rash and negligent driving of the motorcyclist. In absence of material irregularity or perversity, this Court is not expected to interfere.

9. With these observations, the present appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

July 20, 2023
Amandeep

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No