

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

136-A

FAO-1368-2024 (O&M)
Date of Decision : 21.03.2024

THE ORIENTAL INSURANCE COMPANY LIMITED Appellant

VERSUS

KUSUM LATA & ORS. Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. D.P. Gupta, Advocate and
Mr. Shubham Gupta, Advocate for the appellant.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the appellant-Insurance Company challenging the award dated 02.02.2024 passed by the Motor Accident Claims Tribunal, Panchkula on the ground of quantum of compensation awarded as well as on the ground that the deceased himself was responsible to a certain extent inasmuch as the deceased was not wearing a helmet.

2. Learned counsel for the appellant-Insurance Company would contend that though not wearing a helmet could not be a ground for holding the appellant-Insurance Company not liable to pay the compensation, however, the same could definitely be considered as a contributing factor to the death. Learned counsel would further contend that in the postmortem report of deceased, namely, Ankit, it has been stated that the cause of death was combined factor of craniocerebral damage and hemorrhagic shock consequent to blunt trauma.

3. Heard.

4. In the present case though the cause of death has been mentioned as combined factor of craniocerebral damage and hemorrhagic shock consequent to blunt trauma, however, the injuries as mentioned in the postmortem report do not depict any such injury on the head. Infact, blunt trauma can occur in a situation when the victim's head collides with the surface or object or when a flying or falling object strikes the victim's head. Normally blunt injuries result in a concussion and skull fracture. From the perusal of the postmortem report it is difficult to conclude that the death was only due to a head injury and hence the argument of the learned counsel for the appellant-Insurance Company that since the deceased was not wearing a helmet the same was contributing factor leading to his death cannot be accepted. No other argument has been raised.

5. In view of the above, the present appeal being devoid of any merit is dismissed. Pending applications, if any, also stand disposed off.

21.03.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No