

FAO-368-2007 (O&M)

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

210-A

FAO-368-2007 (O&M)

Date of Decision: October 16, 2024

National Insurance Co.

.....Appellant

Vs.

Smt. Santra and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. V.K. Garg, Advocate
for the appellant

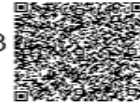
Mr. R.A. Yadav, Advocate
for the respondents.

SUDEEPTI SHARMA J. (ORAL)

The present appeal has been filed by the appellant-Insurance company against the Award dated 31.07.2006 passed in the claim petition under Section 166 of the Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal'), vide which appellant-Insurance Company was held liable for making the payment of compensation.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that on 28.11.2003, Satbir Singh (since deceased) was going from his village at Farrukh Nagar to the office of Sub Registrar on his motor cycle bearing registration No.HR-26-Q-9174. When he reached near PHC Farrukh Nagar, at about 9.00 AM, a maruti car bearing registration No.DL-2CK/3491 (hereinafter referred to as offending vehicle)

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came from opposite side, being driven by respondent No.1 in a rash and negligent manner and hit the motor cycle of the Satbir Singh. As a result of which the motor cycle turned turtle and Satbir Singh sustained head injuries and became unconscious. Thereafter, Satbir Singh was taken to PHC Farrukh Nagar by Man Singh and Mahender, both residents of village Daboda from where he was taken to Kalyani Hospital Gurgaon, where he remained in Coma and doctor of Kalyani Hospital, Gurgaon, declared him dead on 3.12.2003.

3. Upon notice of the claim petition, respondents appeared and denied the factum of accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

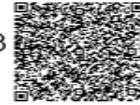
(1) Whether the accident took place due to the rash and negligent driving of maruti car No.DL-2CK/3591 by respondent No.1, as alleged?OPP.

(2) Whether the petitioners are entitled to get compensation. IF so, to what amount and from whom?OPP

(3) Whether the respondent No.1 was not holding valid and effective driving licence and the car in question was being driven in violation of terms and conditions of insurance policy, as alleged?OPR-3.

(4) Relief.

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the tune of Rs.3,10,000/-. Hence, the appellant/Insurance Company filed the present appeal for setting aside the Award dated 31.07.2006 passed by Ld. Tribunal.

**SUBMISSIONS OF THE COUNSELS FOR THE PARTIES**

6. The learned counsel for the appellant contends that the compensation has wrongly been granted since the FIR was lodged against the unknown vehicle. He further contends that Insurance Company has wrongly been held liable to pay the compensation. Therefore, he prays for setting aside the award.

7. Per contra, Ld. Counsel for the respondents/claimants contend that the award has rightly been passed. Therefore, he prays for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. A perusal of the award shows that Ld. Tribunal has dealt with the contentions of the learned counsel for the appellant in detail. PW-1 (Man Singh Singh) and PW-2 (Santra) proved the factum of accident due to rash and negligent driving of respondent No.1. PW-1 (Man Singh) is the eye witness of the occurrence who stated the factum of accident and name of the driver-respondent No.1 and in his cross-examination, his veracity could not be impeached. The FIR was registered against the respondent which was proved on record as Ex.P-15.

10. PW-2 proved the FIR (Ex.P-15). It has been rightly held by the Ld. Tribunal that if the vehicle number is not mentioned in the FIR, then the case of the claimants cannot be discarded because in Para 14 of the claim petition, the make of offending vehicle was disclosed to be maruti car bearing registration No.DL-2CK-3491. According to PW-1, eye witness of the occurrence, the offending vehicle was maruti car bearing registration No.DL-2CK-3491 and as such the version of PW-1 was made on oath.

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11. Therefore, there is no infirmity in the reasoning given by the Ld. Tribunal, which requires interference of this Court.
12. In view of the above, the present appeal is dismissed being devoid of any merit.
13. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

October 16, 2024
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Whether speaking/non-speaking : Speaking
Whether reportable : Yes /No