



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

326

FAO-4683-2007 (O&M)

Date of Decision: December 05, 2024

The Oriental Insurance Company Ltd.

.....Appellant

Vs.

Smt. Pushwinder Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Rajneesh Malhotra, Advocate
for the appellant.

None for the respondents.

SUDEEPTI SHARMA J. (ORAL)

The present appeal has been filed by the appellant-Insurance company against the Award dated 27.09.2007 passed in the claim petition under Section 166 of the Motor Accident Claims Tribunal, Ropar (for short, 'the Tribunal'), wherein the appellant-Insurance company was fastened with the liability to pay the compensation to the claimants along with interest @ 9% per annum.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that on 30.04.2003 at about 3.30 A.M., Sukhdev Singh (since deceased) alongwith Conductor on a Truck bearing registration No.HR-37-4428 was coming back to Punjab from Guwahti. The truck was being driven by Sukhdev Singh deceased which was loaded with coal. When they reached in the revenue limits of village Duganpur,



then a truck bearing No.UP-12C-4231 came from the opposite side i.e. from Rampur, being driven by its driver in a very rash and negligent manner and at excessive speed. The driver of the said truck struck the same against the truck which was being driven by Sukhdev Singh and caused the accident. Sukhdev Singh and Conductor got severe injuries. Sukhdev Singh died at the spot. The driver and the conductor of the said truck bearing No.UP-12C-4231 (hereinafter called offending vehicle) also died in the said accident. The matter was reported to the police at Police Station Milk Janpath, Rampur. It was further averred that the respondent No.1-Sukhdev Singh is owner of the said truck. As such both of them are jointly as well as severally liable to pay the compensation to the claimants who are legal heirs of deceased Sukhdev Singh.

3. Upon notice of the claim petition, appellant-Insurance Company and owner appeared and contested the claim petition denying the factum of compensation.

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

“1. Whether the claimants are legal heirs and were dependents upon deceased Sukhdev Singh ?

2. Whether Sukhdev Singh died in a vehicular road side accident on 30.4.2003 at about 3.30 A.M. in the area of Duganpur falling under the jurisdiction of Police Station Milk Rampur caused by the driver of the Truck bearing No. UP-12C-4231 owned by respondent No.1 and insured with respondent No.2 in a rash and negligent and manner? OPP

3. Whether the claimants are entitled to any compensation? If so to what extent and from whom?OPP

4. Whether the claim petition is not maintainable in the present form? OPR



5. *Whether the drivers of the trucks bearing No.UP-12C-4231 and bearing No.HR-37A-4428 were not having legal and valid driving licences at the time of accident? If so its effect ? OPR2*
6. *Whether the claim petition is bad for non-joinder of necessary parties ? OPR*
7. *Relief.”*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the liability to pay compensation was fastened upon the appellant-Insurance Company.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the appellant-Insurance Company contends that there was a contributory negligence on the part of the deceased-Sukhdev Singh.

7. I have heard learned counsel for the appellant and perused the whole record of the case.

8. The relevant portion of the award is reproduced as under:-

“17. I have considered this point argued upon by the learned counsel for the respondent No.2 and have perused the file. As mentioned above, the matter has been reported to the police and it has been clearly mentioned that the accident occurred due to rash and negligent driving of the driver of the offending vehicle. More so, the accident is admitted by the respondent. From the on oath statement of PW1 Ajay Kaushal and PW2 Pushwinder Kaur, it is clear that they have deposed in the court that the accident occurred due to rash and negligence of the driver of offending vehicle. The statement of PW1 Ajay Kaushal being an eye witness is very important to prove on the file this fact



that the accident occurred due to the fault of the driver of the offending vehicle. This witness has also stated that the deceased was driving the truck No.HR-37-4428 when the offending vehicle came from the opposite side which was being driven by its driver in a very rash and negligent manner and struck against the truck being driven by deceased Sukhdev Singh. Hence under these circumstances, no contributory negligence can be assigned to deceased Sukhdev Singh. Hence, in view of above discussion, this point argued upon by the learned counsel for the respondent No.2 is not acceptable.”

9. A perusal of the award shows that Ld. Tribunal has rightly observed that when the matter was reported to the police, it was clearly mentioned in the FIR that accident occurred due to rash and negligence of the driver of the offending vehicle. Further, the accident is admitted by the respondent-Santokh Singh. The statements of PW1-Ajay Kaushal, who is eye witness to the accident and PW2-Pushwinder Kaur again show that the accident occurred due to rash and negligence of the driver of the offending vehicle.

10. Therefore, I do not find any infirmity in the award dated 27.09.2007, while deciding the question of negligence, by the Ld. Tribunal. Hence, the Ld. Tribunal has rightly decided that no contributory negligence can be attributed to the deceased-Sukhdev Singh.

11. In view of the above, the present appeal is ***dismissed***.

12. The Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Rajneesh Malhotra, Advocate within a period of 20 days from the date of receipt of copy of this judgment.

13. All the pending applications also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

December 05, 2024
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Whether speaking/reasoned:	Speaking
Whether reportable	Yes / No