

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****FAO-1036-2024 (O&M)****Date of Decision : 30.07.2025**

The New India Assurance Company Limited

....Appellant

VERSUS

Lalit and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Armaan Gagneja, Advocate for the appellant.

ALKA SARIN, J. (Oral)

1. Present appeal has been filed by the Insurance Company aggrieved by the award dated 20.12.2023 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'Tribunal').

2. The brief facts relevant to the present *lis* are that on 18.09.2021 Ramesh Dass (hereinafter referred to as the 'deceased') was going from his house towards Alfa City, Karnal for picking up his colleague Shanker on a motorcycle bearing registration No.HR-05BD-9018 which was being driven by him at a normal speed. At about 10:00 am when he reached opposite Alfa City, on GT Road, Karnal, a Canter bearing registration No.HR-63C-3461 (hereinafter referred to as the 'offending vehicle'), which was being driven by its driver i.e. respondent No.7 herein in a rash and negligent manner, hit the motorcycle of the deceased as a result of which he received multiple, serious and grievous injuries on his vital parts of the body and he died on the spot. The deceased was shifted to Govt. Hospital, Karnal where he was declared dead. The matter was reported to the police and FIR No.538/2021 under Sections 279 and 304-A of Indian Penal Code, 1860 was registered

against respondent No.7 at Police Station Civil Lines, Karnal.

3. Vide the impugned award a compensation of ₹37,24,408/- has been awarded to the claimants.

4. The learned counsel for the appellant-Insurance Company would contend that it was a case of contributory negligence and that the finding of the Tribunal on issue No.1 is erroneous. Learned counsel would further contend that the claim petition ought to have been dismissed inasmuch as the negligence of the deceased itself contributed to the happening of the accident. Learned counsel for the appellant has relied upon the testimony of the eye-witness PW2 Shankar to contend that this witness deposed that he had reached the spot after the accident and there was no evidence to establish the rash and negligent driving of the offending vehicle by its driver.

5. Heard.

6. In the present case a perusal of the impugned award reveals that no issue as regards the contributory negligence of the deceased was framed before the Tribunal. Otherwise also, the appellant-Insurance Company did not lead any evidence to prove the factum of contributory negligence on the part of the deceased. Hon'ble Supreme Court in the case of **M. Nithya & Ors. Vs. SBI General Insurance Company Limited [SLP(Civil) Nos.833-834 of 2023 decided on 03.01.2025]** has held that without there being any specific issue regarding contributory negligence and without there being any evidence led by the Insurance Company, it could not be held to be a case of contributory negligence. Hence, the argument of learned counsel for the appellant-Insurance Company in this regard is rejected.

7. So far as the argument of learned counsel for the appellant-Insurance Company as regards deposition of PW2 Shankar is concerned, this witness in his examination-in-chief has clearly deposed that the accident had occurred due to rash and negligent driving of the offending vehicle by its driver i.e. respondent No.7 herein and the statement of this witness is further fortified from the contents of the report under Section 173 CrPC (Ex.P1) as well as FIR (Ex.P2) about which the driver of the offending vehicle is admittedly facing trial before the Area Magistrate. It is well-settled law that the Tribunal has to give weightage to the evidence recorded before it. Hence, no fault can be found with the findings of the Tribunal on issue No.1 and the arguments of learned counsel for the appellant-Insurance Company in this regard stands rejected.

8. Further, to a query of this Court, learned counsel for the appellant-Insurance Company has candidly admitted that the compensation awarded by the Tribunal vide the impugned award was deposited and the same has already been disbursed in favour of the claimants by the Tribunal concerned vide order dated 29.11.2024.

9. In view of the above, there is no merit in the present appeal and the same is dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

30.07.2025
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO