

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****131****FAO-2181-2024 (O&M)****Date of Decision : 27.01.2025**

M/s Golden Heavy Earth Mover and Transport

....Appellant

VERSUS

Manjit Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kulwant Singh Dhanora, Advocate for the appellant.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the owner-appellant of the Tipper bearing registration No.PB-08-DG-8924 (hereinafter referred to as the 'offending vehicle') challenging the award dated 16.02.2024 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal').

2. The brief facts relevant to the present *lis* are that the claimant-respondent Nos.1 to 3 filed a claim petition averring therein that on 23.05.2019 deceased - Saroj Rani - alongwith claimant-respondent No.1 was going on a motorcycle bearing registration No.PB-12-V-5081 from Jalandhar side to village Narur @ Naroor. The motorcycle was being driven by respondent No.1 - Manjit Singh - on the correct side of the road at a moderate speed and the deceased was a pillion rider. At about 11.15 am, when they reached near Mehta bypass, the offending vehicle, which was being driven by Tarsem Singh (respondent No.5 herein) in a rash and negligent manner and without observing the traffic rules, came from behind

and struck against the motorcycle. Both the occupants fell on the road and the rear tyre of the offending vehicle ran over the deceased crushing the lower portion of her body as a result of which she succumbed to her injuries. The driver of the offending vehicle ran away from the spot after leaving the offending vehicle at the spot. The appellant herein was arrayed as respondent no.1 in the claim petition. Initially he was proceeded against *ex parte* as he did not join the proceedings despite service. On 24.01.2022 an application was filed for setting aside the *ex parte* proceedings, which was allowed vide order dated 14.02.2022 subject to payment of Rs.500/- as costs. Thereafter, the appellant herein neither filed his written statement nor deposited the costs and hence he was again proceeded against *ex parte*. Thereafter, a second application was filed on 27.05.2022. Though the Tribunal did not set aside the *ex parte* proceedings, however, it permitted the appellant herein to join the proceedings from that date and stage on 14.07.2022. The Insurance Company had filed a written statement taking preliminary objection regarding the validity of the driving licence of the driver of the offending vehicle amongst other objections and contesting the claim petition on merits.

3. On the basis of pleadings of the parties, the following issues were framed :

1. Whether Saroj Rani died in a motor vehicular accident occurring due to rash and negligent driving of vehicle No.PB08-DG-8924 by respondent No.3 ? OPP
2. Whether claimants are entitled to compensation? If so, to what extent and from whom ? OPP
3. Whether the respondent No.3 was not holding a legal and valid driving licence at the time of the

- accident? If so, its effect ? OPR-2
- 3-A. Whether Tipper No.PB08-DG-8924 was not having a valid RC, route permit and fitness certificate at the time of alleged accident ? OPR-3.
4. Whether there is breach of any condition of the insurance policy by respondent No.1 ? OPR-2.
5. Relief.

4. The Tribunal holding the driver of the offending vehicle guilty and further that the driver of the offending vehicle was holding a fake driving licence at the time of accident, awarded the following compensation and granted recovery rights against the appellant and the driver of the offending vehicle (respondent No.5 herein) :

Sr. No.	Heads	Compensation Awarded
1	Income of the deceased	Rs.9000/- per month
2	Dependency by applying the multiplier of 15	Rs.9000 x 12 x 15 = Rs.16,20,000/-
3	Loss of consortium to claimant No.1	Rs.44,000/-
4	Funeral expenses	Rs.16,500/-
5	Loss of estate	Rs.16,500/-
	Total Compensation	Rs.16,97,000/-
	Interest	7.5% per annum

5. Aggrieved by the award passed by the Tribunal, present appeal has been filed.
6. Learned counsel for the appellant would contend that the owner of the offending vehicle had checked the driving licence of the driver of the offending vehicle and once the owner had checked the licence the recovery rights could not have been given.
7. Heard.

8. In the present case the owner i.e. appellant herein failed to appear before the Tribunal initially and was proceeded against *ex parte*. Thereafter, *ex parte* order was set aside and he was permitted to file his written statement subject to payment of Rs.500/- as costs vide order dated 14.02.2022. The appellant herein failed to file his written statement and also did not deposit the costs. Subsequently, when the matter was fixed for evidence of the claimants, a second application was filed for permission to file the written statement and for setting aside the *ex parte* order, which was not allowed. However, the appellant was allowed to join the proceedings. Even thereafter the appellant failed to lead his evidence in support of his defence. In the absence of any pleadings being filed by the appellant and any evidence having been led, no fault can be found with the award passed by the Tribunal. In order to discharge the burden that the license had been checked by the owner and was found in order the owner needed to step into the witness box. However, the appellant despite availing numerous opportunities failed to file his written statement or join the proceedings.

9. In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

27.01.2025
jk

(ALKA SARIN)
JUDGE

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