



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

1. FAO-16215-2018 (O&M)
Date of decision: 11.02.2025

SHAKUNTLA AND ORS

..Appellants

Versus

AMRISH AND ORS

..Respondents

2. FAO-768-2019 (O&M)

SHRI RAM GENERAL ISURANCE COMPANY LIMITED

..Appellant

Versus

SHAKUNTLA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Gupta, Advocate
Mr. Vishal Walia, Advocate for the appellants.

Mr. Rajbir Singh, Advocate for insurance company.

ANIL KSHETARPAL, J(Oral)

1. With the consent of learned counsel for the parties, two connected cross appeals, one filed by the insurer and second filed by the claimants shall stand disposed of by this common order.

2. Late Sh. Shambhu Ram died in a motor vehicular accident on 05.10.2017. He left behind a widow and two minor children. The Motor Accident Claims Tribunal (in short 'Tribunal') has awarded Rs.28,02,990/-.

3. Learned counsel appearing on behalf of insurance company while referring to deposition of Sh. Sunil Dutt and Sh. Navsad Ali submits that there is a false implication of insured vehicle No.HR-45B-8952. He



submits that in the FIR, vehicle number, which caused the accident has not been disclosed. Even the name of the driver, who caused the accident has been disclosed. Sh. Sunil Dutt (PW-2), the author of the FIR was not present at the time of accident. He submits that Sh. Sunil Dutt lodged the FIR on the basis of information given to him by Sh. Navsad Ali. While appearing in evidence, Sh. Navsad Ali failed to disclose the vehicle number, which caused the accident.

4. This Court has considered the submissions of learned counsel for the parties.

5. Sh. Shambhu Ram was riding on a cycle when the accident took place. Sh. Navsad Ali works in a foam factory situated at Safiabad Road, Sonipat. He was returning to village Barota. When he reached near Krishan Dharam Kanta, he saw a Hywa Dumper, yellow colour caused the accident. The dumper was coming from Delhi side in a rash and negligent manner. He took the injured to hospital as the alleged offending vehicle fled away from the spot after causing accident. The police came on the spot and he disclosed the registration plate number and description of the vehicle at the spot. Sh. Sunil Dutt (PW-2) has stated that he registered the FIR on the basis of information given to him by Sh. Navsad Ali (PW-3). He admits that he did not witness the accident.

6. The FIR was registered on 06.10.2017. Sh. Navsad Ali is not proved to be an interested witness. He was returning to his village when he witnessed the accident. Despite lengthy cross-examination, the insurance company failed to impeach his credibility. The Tribunal is required to decide the cases on the basis of preponderance of evidence. On going through his



statement, it is evident that this witness has been frank and forthcoming while deposing in the Court. There is no material to doubt his credibility. Non-disclosure of registration number in the FIR would not be sufficient particularly when the police after investigation found that Sh. Amrish Malik while driving the dumper caused the accident. He is facing criminal prosecution. Hence, there is no merit in the appeal filed by the insurance company.

7. The claimants pray for modification of the award on the ground that the Tribunal has failed to award appropriate amount of consortium. Qua the loss of consortium, each claimant is entitled to Rs.40,000/- in view of the judgment passed by the Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333** which has been reiterated by another Division Bench in **New India Assurance Co. Ltd. vs. Somwati and others, Civil Appeal No.3093 No.2020, decided on 07.09.2020**, and by a three Judge Bench in **United India Insurance Company Ltd. Vs. Satinder Kaur @ Satwinder Kaur and others, (2020) SCC Online 410**, in which it has been approved that each parent is entitled to Rs.40,000/- as consortium. Smt. Shakuntla Devi shall be entitled to Rs.40,000/- as spousal consortium, whereas, two minor children shall be entitled to parental consortium of Rs.40,000/- each.

8. This Court has been informed that the entire amount of the compensation shall stand deposited in the Tribunal, which was invested in the Fixed Deposit Receipt. The amount shall be paid to the claimants. The enhanced amount shall carry interest at the rate of 8% from the date of claim petition till payment.

9. Both the appeals stand disposed of accordingly.



10. The statutory amount of Rs.25,000/- be remitted to the Tribunal.
11. All the pending miscellaneous applications, if any, are also disposed of.

February 11th, 2025
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*