

(2013) 05 P&H CK 0028
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 2335 of 2013 (O and M)

New India Assurance Company Ltd.

APPELLANT

Vs

Suresh Rani and Others

RESPONDENT

Date of Decision : 07-05-2013

Acts Referred:

Citation : (2013) 4 ACC 480

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—The appeal is by the Insurance Company claiming that the Tribunal was in error in assessing the compensation against the

insured. The Counsel would point out that the accident had taken place on 4th September, 2011 and a complaint had been given on the following

date by his brother that an unknown vehicle dashed against his brother, who was travelling in his scooter. The case of the claimants was that

C.W.3 Amrit Sher Pal Singh had come to meet with Shamsher Singh, who conveyed him that he has caused an accident and was being hounded

by the police. C.W.3 was himself not an eye-witness but he spoke about a confession made by a person as having caused the accident. It appears

that Shamsher Singh made a statement to the police of his own guilt and the police seized the vehicle and proceeded to prosecute the first

respondent. Neither Shamsher Singh was examined nor the owner was brought to the Court to defend the accident. The Court found that in the

light of the statement of C.W.3, who gave evidence about a confession made to him by Shamsher Singh the driver about the involvement of his car,

the non-examination of Shamsher Singh by the respondents was material and found that the accident had been proved. The learned Counsel for the Insurance Company contends that there was no eye-witness to the accident and C.W.3 himself was not an eye-witness. His evidence ought not to have been believed to hold that the accident had taken place on 4th September, 2011. Shamsher Singh himself was said to have been taken before the police by C.W.3 Amrit Sher Pal Singh only on 2nd December, 2011, which according to him was artificial. The alleged artificiality would have been taken as such if there was evidence of Shamsher Singh himself. The only that could have spoken about the accident and the non-involvement of the vehicle was the person against whom imputation was made that he was driving the vehicle. We are not deciding a criminal case of proving the guilt of a person beyond reasonable doubt. Tribunal's approach always admits of preponderance of probability. That precisely was the manner of inference, which the Tribunal obtained with the fact that the person against whom imputation was made had not come to the Court to defend himself. As to why the owner could not secure the presence of the driver, the Insurance Company itself ought not to be heard unless it was a case of collusion between the claimants and the insured or its driver. This aspect of collusion was an essential matter of evidence and proof. No evidence was brought to make possible such an inference of collusion as well.

2. The finding recorded by the Court regarding the involvement was, therefore, perfectly justified and the assessment to compensation making the Insurance Company liable also conforms to the evidence brought before the Court. There is no cause for interference.

3. The Counsel has also argued that the assessment of compensation has been made without appropriate evidence regarding income. The evidence was brought through an Accountant of M/s. Gauri Rice and General Mills Naresh Kumar who spoke to the fact that the deceased was employed in their firm and they were paying Rs. 4,300 per month. There was appropriate evidence on the basis of which the assessment was made. There is no merit in the appeal and the same is dismissed.