



**FAO-4023-2024(O&M)
and other connected case**

**122-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1.FAO-4023-2024(O&M)

Universal Sompo General Insurance Company Ltd.
..Appellant

Versus

Sh.Atul and others ..Respondents

2.FAO-3964-2024(O&M)

Universal Sompo General Insurance Company Ltd.
..Appellant

Versus

Bimla and others ..Respondents

Date of decision: 04.02.2025

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Punit Jain, Advocate for the appellant

ANIL KSHETARPAL, J. (Oral)

CM-14784-CII-2024 in FAO-4023-2024

1. For the reasons stated in the application, delay of 35 days in re-filing the appeal is condoned.

2. CM stands allowed.

CM-14785-CII-2024 in FAO-4023-2024

3. For the reasons stated in the application, delay of 81 days in filing the appeal is condoned.

4. CM stands allowed.

Main cases

5. With the consent of the learned counsel representing the appellant, two connected First Appeals filed by the Insurance Company



**FAO-4023-2024(O&M)
and other connected case**

against a common award passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'Tribunal') shall stand disposed of by this order.

6. In a motor vehicular accident which took place on 27.10.2018 at 7:15 pm, late Sh.Pramod died whereas Sh.Atul was injured. On account of death of Sh.Pramod, his parents have filed the claim petition whereas Sh.Atul-injured filed the second claim petition. In order to prove the accident, two eye witnesses namely PW2 Ashok Kumar and PW3 Manoj Kumar were examined. Upon appreciation of evidence, the Tribunal found that the accident was caused due to rash and negligent driving of driver of the truck (Dumper).

7. Thus, both the claim petitions were allowed. The correctness of the award passed by the Tribunal has been challenged by the Insurance Company. Learned counsel representing the appellant contends that from perusal of the Medico Legal Report of injured Sh.Atul it is apparent that he was admitted as an unknown patient and the place of accident was recorded near RPS School, Rewari Road. He submits that subsequently the insured truck has been falsely implicated to get compensation from the Insurance Company. He further submits that owner of the truck has appeared in evidence and denied the occurrence of accident.

8. Record of the Tribunal was requisitioned. This Court has carefully read the deposition of PW2 Ashok Kumar and PW3 Manoj Kumar. Despite their lengthy cross-examination, the Insurance Company has failed to impeach their credibility. Both these witnesses have not been cross-examined with respect to the place of accident. Both the eye witnesses



**FAO-4023-2024(O&M)
and other connected case**

unanimously stated that the accident took place near Sham Dharam Kanta. In fact, when both the eye witnesses were cross-examined, the counsel representing the Insurance Company suggested that the injured Sh.Atul and the deceased Pramod were travelling on a motorcycle. Since the correctness of the deposition of eye witnesses with regard to place of accident is not challenged in the cross-examination, hence, the Insurance Company has failed to prove its defence. Admittedly, Sh.Atul was first taken to Govt. hospital and subsequently, he was shifted to SDMH Hospital, Jaipur. Admission of Sh.Atul in the Govt. Hospital and his shifting to the hospital located at Jaipur is not in dispute. These cases are required to be decided on preponderance of probabilities. Police has presented challan after its investigation and concluded that the driver of the truck caused the accident resulting in death of Pramod and injury to Sh.Atul. Moreover, the driver of the truck has not been examined.

9. Keeping in view the aforesaid facts, no ground to interfere is made out.

10. Hence, dismissed.

11. The office is directed to remit the statutory amount of Rs.25,000/- to the Tribunal.

12. All the pending miscellaneous applications, if any, are also disposed of.

**(ANIL KSHETARPAL)
JUDGE**

04.02.2025

rekha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No