



FAO-3992-2024 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(122)

FAO-3992-2024 (O&M)
Date of decision:- 22.01.2025

IFFCO TOKIO GENERAL INSURANCE CO. LTD.

... APPELLANT

VERSUS

DIRECTOR GENERAL OF POLICE, HARYANA AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sachin Ohri, Advocate
for the appellant.

SUVIR SEHGAL, J. (ORAL)

1. Instant appeal has been filed under the Motor Vehicles Act, 1988 by an insurer assailing award dated 05.03.2024 passed by the Motor Accident Claims Tribunal, Panipat (for short "the Tribunal"). Alongwith the appeal, appellant has filed an application for condonation of delay of 74 days in its filing.
2. Undisputed facts are that on 18.12.2020, ESI Vedpal was driving a government vehicle and Constable, Sumit, was sitting with him. They were on duty and were travelling to Kaithal. A tractor trolley bearing No. HR-33G-8790 suddenly applied its brake and a Honda Amaze car bearing registration No.HR-33D-9590, which was following it, collided in the tractor trolley and fell on the government vehicle. ESI Vedpal and Constable Sumit sustained injuries. The driver of the tractor trolley sped away with the offending vehicle. Due to injuries sustained by ESI Vedpal and Constable Sumit, were admitted in



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a private hospital. All the three boys travelling in the Honda Amaze car unfortunately died in the accident. Claiming loss on account of damage to the government vehicle, claimant-respondent No.1 filed a petition before the Tribunal. After contest, petition has been partly accepted and impugned award of Rs.5 lacs has been passed against the driver, owner and the insurance company-appellant alongwith interest @ 7% per annum from the date of filing of the petition.

3. Mr. Sachin Ohri, counsel for the appellant has argued that the appellant is the insurer of the tractor trolley and the accident of the government vehicle did not take place with the insured vehicle. He submits that the Honda Amaze, which struck the tractor trolley from behind, fell on the government vehicle causing damage to it and the appellant cannot be fastened with the liability for the payment of compensation.

4. I have heard counsel for the appellant and considered his submission, besides analysing the requisitioned record.

5. The mode and manner of the accident is not in dispute. The sole question to be determined is whether the driver of the tractor trolley, which is insured with the appellant, was driving rashly and negligently or the fault is of the driver of the Honda Amaze. In his affidavit, Ex-PW-1/A, ESI Vedpal, who was driving the government vehicle, has supported the case as pleaded in the claim petition. He has claimed that the tractor trolley was being driven rashly. A perusal of the FIR (Mark-A) recorded at the instance of ESI Vedpal on 19.12.2020 also shows that it has been alleged that the driver of the tractor trolley, who was driving negligently, suddenly applied the brake resulting in



the collision of the Honda Amaze, which was following it. His version has been supported by ASI Parvinder- PW-2, who has also produced a copy of the investigation report, Ex. P-3, and charge-sheet, Ex. P-4, which show that Parveen, driver of the tractor trolley, has been charged for offences under Sections 227, 339 and 304-A, IPC by the Judicial Magistrate, Assandh. The mechanical reports of both the tractor trolley as well as the Honda Amaze, Ex.P-5 and Ex.P-6, respectively, also established that the car had hit the tractor from behind. Respondent No.1, the driver of the offender tractor trolley has appeared in the witness box and claimed that he was driving the tractor at a normal speed, but his testimony cannot be believed. It cannot be denied that he has been accused of negligent driving, an FIR has been registered against him and he has been charge-sheeted. In *Ravi Versus Badrinarayan and others, (2011) 4 SCC 693*, Supreme Court has held that registration of an FIR certainly proves the factum of the accident, so that the victim is able to lodge a case for compensation.

6. Even though the tractor trolley did not hit the government vehicle, but the accident had been caused due to the rashness of its driver. Honda Amaze, which was following it, hit the tractor trolley and fell on the government vehicle. Therefore, considering all these factors as well as the judgment of the Supreme Court, this Court is of the opinion that the finding recorded by the Tribunal qua rash and negligent driving of respondent No.1, which resulted in the accident, cannot be disturbed. As the tractor trolley is insured, the appellant-insurance company cannot escape its liability for compensating the claimants for the loss caused to the government vehicle. This

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Court does not find any error in the finding recorded and compensation granted by the Tribunal.

7. Appeal being devoid of merit is dismissed with no order as to costs.
8. As the appeal has been decided on merits, application for condonation of delay in its filing is also dismissed.

22.01.2025
Kamal

(SUVIR SEHGAL)
JUDGE

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable | Yes/No |