



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

257

FAO-3947-2018 (O&M)

Date of Decision : 16.01.2025

NATIONAL INSURANCE CO. LTD.

.... Appellant

VERSUS

ANITA AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gopal Mittal, Advocate for the appellant.

Mr. Kartik, Advocate for respondents No.1 and 2.

Mr. Sumit Sangwan, Advocate for

Mr. Navneet Singh, Advocate for respondents No.3 and 4.

ALKA SARIN, J. (ORAL)

1. The present appeal has been filed by the appellant-Insurance Company challenging the award dated 17.03.2018 passed by the Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal').

2. Brief facts relevant to the present *lis* are that on 09.01.2017 Prem Sagar (since deceased) along with his daughter, namely, Bhumika were going towards Village Lahli from Madina on an Activa bearing registration No.HR-12-M/5332. Prem Sagar was riding the Activa while Bhumika was the pillion rider. Vidhya Sagar son of Ram Nath was following them in the car bearing registration No.HR-12-Q/6695. At about 12:00 noon when they reached the main road in Village Lahli, a Tata 407 (hereinafter referred to as the offending vehicle), which was being driven by Zile Singh (respondent No.3 herein) at a very high speed and in a rash and

negligent manner, struck against the Aactiva. As a result thereof both the riders of the Aactiva sustained grievous injuries and later they succumbed to their injuries. The Tribunal found that the accident took place due to the rash and negligent driving of the driver of the offending vehicle. Aggrieved by the same, the present appeal has been preferred by the appellant-Insurance Company.

3. Learned counsel for the appellant-Insurance Company would contend that it was a head-on collision and hence at best it would be a case of contributory negligence. It is further the contention that the rider of the Aactiva did not comply with Rules 8 and 9 of Rules of the Road Regulations, 1989.

4. *Per contra*, learned counsel for the respondents would contend that in the written statement it was not even the plea raised that it was a case of contributory negligence. It is further the contention that it has nowhere come in evidence that it was a head-on collision.

5. Heard.

6. In the present case the argument of the learned counsel for the appellant-Insurance Company that it was a head-on collision and hence is a case of contributory negligence deserves to be rejected at the outset inasmuch as in the written statement it was not even the plea raised that it was a case of contributory negligence. Further still, there was not an iota of evidence on the record which had been led by the appellant-Insurance Company to show that it was a case of contributory negligence or that there was any fault on the part of the rider of the Aactiva. Yet further, the driver of

the offending vehicle did not even step into the witness box and hence the argument of the learned counsel for the appellant-Insurance Company that it was a case of contributory negligence stands rejected. It is also neither pleaded nor proved that it was a case of head on collision. The second argument of the learned counsel for the appellant-Insurance Company that the rider of the Activa did not comply with Rules 8 and 9 of Rules of the Road Regulations, 1989 also deserves to be rejected in the absence of any evidence led by the appellant-Insurance Company to prove the same. Learned counsel for the appellant-Insurance Company has not been able to point out any evidence on the record to even remotely suggest that any Rule was violated by the rider of the Activa.

7. In view of the above, no fault can be found with the impugned award passed by the Tribunal. The present appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

16.01.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No