

(2013) 09 P&H CK 0304

High Court Of Punjab And Haryana At Chandigarh

Case No: F.A.O. No. 4431 of 2013 (O and M)

United India Insurance Company
Limited

APPELLANT

Vs

Ram Murti and Others

RESPONDENT

Date of Decision: Sept. 9, 2013

Citation: (2014) 173 PLR 485

Hon'ble Judges: Vijender Singh Malik, J

Bench: Single Bench

Judgement

Vijender Singh Malik, J.

Delay of 7 days in filing the appeal is condoned for reasons given in the application, which is duly supported by an affidavit,

Main Appeal

The challenge by United India Insurance Company Limited, the insurer to the award dated 23.5.2013 passed by learned Motor Accidents Claims Tribunal, Sirsa (for short, "the Tribunal") is two-fold. The first aspect of the challenge is that the Tribunal did not properly consider the fact that there has been triple riding of the motorcycle and on account of the same, there was rash and negligent driving of the motorcycle and it is a case of contributory negligence. The other part of the challenge is that it was a head-on collision and so, it was a case of contributory negligence.

Learned counsel for the appellant has contended that the claimant, Ram Murti was himself negligent as three persons were riding the motorcycle. According to him, on this very accident, another claim petition was filed which came for decision before another Tribunal at Sirsa where the contributory negligence on the part of the injured was assessed at 25%. He has further submitted that learned Tribunal did not consider even the fact that it was a head-on collision and, therefore, it was a case of contributory negligence.

2. There is nothing on the record to prove that it was a case of head-on collision. Even if it is taken that it was a case of head-on collision, the inference regarding contributory negligence would be available only if the accident occurred in the middle of the metalled road. In case, one vehicle is at its proper side and the other vehicle comes to the wrong side and the result is head-on collision, it will not be a case of contributory negligence and the entire responsibility for the accident would be on the vehicle that came to the wrong side of the road. Nothing such has been pointed out by learned counsel for the appellant.

3. Coming to the case of triple riding, the same by itself does not raise the presumption that a person driving a motorcycle with two persons on pillion is rash or negligent or his triple riding contributes to the cause of the accident. A person having two persons on the pillion can still drive a motorcycle in a proper way. So, unless it is proved that the person who was having two persons on the pillion of his motorcycle had contributed in any manner to the cause of the accident, it cannot be said to be a case of contributory negligence.

4. Learned Tribunal has rightly dealt with the arguments of learned counsel for the appellant with regard to the plea of contributory negligence on account of triple riding and has rightly ignored the findings of a coordinate Tribunal. In these circumstances, I find no merit in the points raised by learned counsel for the appellant during the course of arguments. Hence, the appeal is found to be devoid of merit and is dismissed in limine.