

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 10682/2017

NATIONAL INSURANCE CO. LTD.

Appellant(s)

VERSUS

KARAMJIT KAUR & ORS.

Respondent(s)

O R D E R

1. Heard the learned counsel for the parties and perused the appeal papers.
2. In respect to the accident which had occurred on 12.05.2009, the respondents herein, had approached the Motors Accidents Claims Tribunal (*for short* 'MACT) claiming compensation.
3. The MACT, having taken note of certain discrepancies in the manner in which the complaint was lodged by the alleged eyewitness to the accident i.e. the son of the deceased, and also with regard to the description of the vehicle, had arrived at the conclusion that the claimants had not made out a case to seek for compensation.
4. In the appeal filed before the High Court by the claimants, the same being a first appeal, the High Court has re-appreciated the evidence. In that regard, having taken note of the documents which were marked before the Tribunal, has arrived at the conclusion that based on the complaint and the vehicle referred to subsequently, the accident having occurred is established by discharging the burden of proof to the extent required. In that light, has arrived at the conclusion that the claimants have *prima*

facie established that the accident had taken place. The onus has therefore, shifted on the Insured and the Insurer, in the facts of the present case.

5. In that regard, no doubt, though, the learned counsel for the appellant sought to contend that the owner of the vehicle was examined, and he had also been cross-examined, which had not been appropriately taken note by the High Court, we see no reason to set aside the judgment of the High Court only due to that reason, since the High Court has noted the contention on behalf of the Insured and has found that it was insufficient.

6. In a matter of the present nature, where the respondents herein, had tendered evidence to indicate that the accident had taken place and the insured under the appellant had only stated that the vehicle was not at the place where the accident had taken place since, the vehicle had gone to the place called Samana in Punjab, in that regard, there is no sufficient evidence so as to upset the finding rendered by the High Court. Further, the distance between the two places is not to the extent that it can be assumed that the vehicle could never have been at the place where the accident had occurred. Hence, even on the preponderance of probability also, it is difficult to accept the contention of the learned counsel for the appellant based on the present facts of the case.

7. Therefore, keeping in view all aspects of this matter, we see no reason to interfere with the judgment dated 21.09.2016 passed by the High Court of Punjab and Haryana at Chandigarh.

8. Accordingly, the appeal being devoid of merits stands dismissed.

9. Pending application(s), if any, shall stand disposed of.

.....J.
(A.S. BOPANNA)

.....J.
(S. RAVINDRA BHAT)

New Delhi
01st December, 2022

ITEM NO.103

COURT NO.12

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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(IA No. 64099/2017 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 01-12-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Appellant(s) Mr. Abhishek K Gola, Adv.
 Mr. Sudhir Naagar, AOR

For Respondent(s) Mr. Sarthak Arora, Adv.
 Ms. Nidhi, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(DIPTI KHURANA)
ASSISTANT REGISTRAR

(signed order is placed on the file)