

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2688 of 1996 (O&M)

Date of Decision: March 26, 2015

Manjit Singh

...Appellant

Versus

Punjab Roadways (Depot) U.T. Chd.

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.P.S.Ahluwalia, Advocate
for the appellant.

Respondents No.1 and 2-*ex parte*

Mr.Hemender Goswami, Advocate
for respondent No.3.

Mr.Rohit Goswami, Advocate for
Mr.Vinod Chaudhari, Advocate
for respondent No.4.

INDERJIT SINGH, J.

Appellant Manjit Singh has filed this appeal against Punjab Roadways (Depot) U.T. Chandigarh, Daljit Singh, Jagdish and The New India Assurance Company respondents challenging the impugned award dated 05.06.1996 passed by learned Motor Accident Claims Tribunal, Jagadhri (hereinafter referred to as 'Tribunal').

Notice of motion was issued and learned counsel for respondents No.3 and 4 appeared and contested the petition.

The brief facts of the case as stated in the claim petition

are that on 05.05.1993, Manjit Singh appellant-claimant along with Lakhmi Chand cleaner was coming from Ambala City to Yamuna Nagar by driving truck No.HYE-4605. He was driving the truck at a moderate speed on its extreme left side of the road. When he was about to reach Chhapper, a bus bearing No.PB-12A-8322 came from the opposite side which was being driven in a rash and negligent manner. It came to the wrong side and dashed against the truck. As a result of the accident, the truck driven by the appellant was dragged and appellant sustained multiple injuries including fracture of his right angle. Appellant became unconscious and he found himself at Civil Hospital, Jagadhri. His right ankle was crushed. The appellant claimed that he was 36 years old working as a driver and earning ₹5000/- per month. He claimed to have been treated by doctor at Civil Hospital, Jagadhri and at Kohli nursing home Jagadhri and also claimed to have spent ₹70,000/- on his treatment and diet and ₹10,000/- as miscellaneous expenses.

Respondents appeared and filed reply to the claim petition and took plea that accident took place due to rash and negligent driving of the claimant-appellant himself. It is alleged that claimant was driving the truck in a rash and negligent manner and it had struck against the bus which was going on its proper side. It is further stated that the bus was stopped at Kanheri Chowk, where some passengers boarded the bus for Ambala. The bus was still at slow speed and on seeing the truck, the bus was taken to the *kacha* berm of the road to avoid collision.

Learned Tribunal framed following issues:-

- “1. Whether the petitioner sustained injuries as a result of rash or negligent driving of the vehicle in question by respondent No.2 as alleged?OPP.*
- 2. Whether the petitioner is entitled to compensation if so to what amount and from whom?OPP.*
- 3. Whether the respondent No.2 was not duly licenced driver, if not to what effect?OPR.*
- 4. Relief.”*

Learned Tribunal after discussing the evidence, decided issue No.1 against the claimant-appellant. The Tribunal, on the basis of evidence reached to the correct conclusion that if the claimant has seen the bus standing allowing the passengers to get down at Kanheri Chowk, from a distance, then after allowing the passengers to get down or boarding the bus, the bus must have accelerated from standing position to some speed. On the other hand, the truck was in motion when the driver of the truck noticed the bus in standing condition. In these circumstances, more than half of the distance between the two vehicles must have been covered by the truck. The bus to reach near the truck could have covered short distance. It is not believable that the bus got such a speed where it can be said to be proved that bus was driven rashly. The Court also discussed the fact that a case was registered against the claimant-appellant by the police. The appellant admitted while appearing as PW-1 that he never made any complaint to any higher authority about the registration of the case against him.

The Tribunal correctly reached to the conclusion that if the

accident was on account of rash and negligent driving of the bus, the claimant might have made some attempt to make the complaint to higher authorities. The statement of the claimant also does not make clear as to how the accident took place. The Tribunal also discussed the statement of the driver of the bus, who appeared as RW-1 and rebutted the evidence of the claimant-appellant.

From the evidence, it cannot be held that it is case of contributory negligence. From the record, it is clear that the claimant-appellant has not led any cogent evidence to prove rash and negligent driving by driver of the bus. As the appellant failed to prove his case, therefore, he is not entitled to any compensation.

Therefore, finding no merit in the present appeal, the same is dismissed.

March 26, 2015
Vgulati

(INDERJIT SINGH)
JUDGE