

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

FAO No.2907 of 1996

Date of Decision: January 14, 2015

Kuldeep Singh

...Appellant

Versus

Lachhaman Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Naresh Kaushal, Advocate
for the appellant.

Mr. Navin Kapoor, Advocate
for respondent No.7.

Mr. R.C. Kapoor, Advocate
for respondent No.8.

FATEH DEEP SINGH, J.

The claimant-driver has impugned in this appeal the award of the learned Motor Accident Claims Tribunal, Rupnagar dated 8.8.1995.

Upon hearing learned counsel for the parties and perusing the records of the case. It was on 19.4.1992 around 9.30. a.m. the claimant-Kuldeep Singh now appellant was coming with bus No.PJG-2104 from Chandigarh to Ropar and in the area of Mundi Kharar, a Maruti Van bearing No.HP-02-0375 came from the opposite side in a rash and negligent manner overtaking a

canter vehicle bearing No.CHW-7280 struck against the bus of the claimant, as a consequence of which, the claimant received injuries. The stand of the claimant that he was aged around 35 years, working as a driver with Punjab Roadways and earning ₹5,000/- per month has neither been rebutted in the evidence of the respondents much less could be refuted during the course of the arguments by the counsel for the contesting respondents.

Though, it is sought to be agitated that the driver of the bus was at fault too, the learned Tribunal while adjudicating upon issue No.1 as to the mode of the accident had laid considerable stress on the fact that the driver of the Maruti Van in his efforts to overtake the canter vehicle first struck against the canter vehicle and, thereafter, against the bus and the learned Tribunal had outrightly brushed this evidence on the grounds that as is reflected from the evidence the own statement of the claimant-Kuldeep Singh, the Maruti Van which was overtaking the canter vehicle hit the canter and then Maruti Van struck against the bus and it is thereafter, the bus struck against the canter and that is how he has received injuries. The learned Tribunal has taken into consideration that the driver-claimant in his cross-examination admits that the road was straight without any curve and it was 20/25 feet wide at the point where the accident took place. Even the FIR Ex.A-56 has been lodged by the driver of the canter vehicle against the claimant-driver of the bus in question. Not only this as has been argued by the counsel for the respondents who has drawn attention of this Court to the own admission of the claimant-Kuldeep Singh in his cross-examination that he was prosecuted by the police for rash and negligent driving

and criminal case under Section 304-A IPC was registered against him pertaining to this accident are matters which have a bearing on the case of the claimant and in view of law laid down in **Keshub Mahindra v. State of Madhya Pradesh' II (1996) ACC 292 (SC)** is prima facie evidence of the fault of the claimant-driver. Learned Tribunal while drawing conclusions on issue No.1 which is the moot point involved has rightly concluded justifiably that in view of the evidence and the circumstances brought on the records the claimant-Kuldeep Singh has failed to establish that the accident was result of rash and negligent driving of the driver of the Maruti Van nor it could be proved that the driver of the canter vehicle was at fault and, thus, the findings returned on issue No.1 by the learned Tribunal needs to be upheld. Therefore, in the light of this cogent evidence and proven fact, the claimant is totally disentitled to seek any compensation and his stand is impregnated with falsehood for which he cannot seek sympathy of the Court.

Thus, there being no illegality and perversity in the findings of the Tribunal, the same are upheld. The instant appeal being without any merits stands dismissed with costs.

(FATEH DEEP SINGH)
JUDGE

January 14, 2015
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