

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

205

FAO No.2722 of 2004 (O&M)

DATE OF DECISION: January 19, 2015

State of Haryana and another

....Appellants.

VERSUS

Sukha Singh and others

....Respondents.

CORAM : HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present: Mr. Sudeep Mahajan, Addl. A.G., Haryana
for the appellant-State.

Mr. Kuldeep Joshi, Advocate for
Mr. Harsh Aggarwal, Advocate
for respondent No.3.

MAHAVIR S. CHAUHAN, J.(Oral)

Claim application No.41 of 2001 was brought by State of Haryana, the appellant herein, to seek compensation amounting to Rs.2,11,245/-, for damage caused to its bus bearing registration no.HR-39/410 on account of rash and negligent driving of a tractor bearing registration no.PB-42/9583, by Sukha Singh, on 22.10.2000.

The claim application was contested by the respondents.

Necessary issues were framed.

Both the sides adduced evidence and were heard by learned Motor Accident Claims Tribunal, Fatehabad (for short 'Tribunal').

On appraisal of the evidence available on record and after hearing learned counsel for the parties, learned Tribunal came to the

conclusion that it was a case of contributory negligence and as such while assessing the damage caused to the bus to the tune of Rs.1,11,529/-, awarded compensation amounting to Rs.37,176/- in favour of the appellant vide award dated 02.03.2004.

To challenge the award dated 02.03.2004, appellant-State has brought the instant appeal.

I have heard the learned counsel for the parties.

It is argued by learned Additional Advocate General, Haryana, appearing on behalf of the appellant-State that the driver of the offending vehicle, i.e., tractor bearing registration no.PB-42/9583 was solely responsible for causing the occurrence. Further, learned Tribunal has wrongly held the driver of the appellant bus to have contributed to the said occurrence.

The contention, however, is resisted by learned counsel appearing for the respondents.

After hearing learned counsel for the parties and on appraisal of the impugned award, it comes out that the learned Tribunal framed Issue no.1 with regard to the factum and manner of the occurrence. It is also evident from the record, and as a matter of common knowledge that a tractor is a slow moving auto-mobile and cannot be driven at the speed of 100 km to 120 Km per hour. The accident in question, admittedly, took place when the bus of the appellant was over-taking the tractor in question. In such a situation, driver of the bus was expected to be more cautious and careful. From the evidence of the witnesses examined on behalf of the parties before the learned Tribunal, it is also clearly made out that both the drivers contributed to the occurrence to the extent indicated in the impugned award.

Nothing to the contrary is shown during the course of hearing.

In view of the above, I do not find any reason to interfere with the award passed by the learned Tribunal.

Dismissed.

No costs.

(MAHAVIR S. CHAUHAN)
JUDGE

January 19, 2015.

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