

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

CWP No. 19503 of 2003

Date of Decision:-06.01.2015

Major Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.
HON'BLE MR. JUSTICE DEEPAK SIBAL**

**Present:- Mr. Vikas Singh, Advocate
for the petitioner.**

Mr. K.K.Gupta, Addl. AG Punjab.

SATISH KUMAR MITTAL, J.(Oral)

Petitioner-Major Singh was employed as a cleaner by PWD (B&R) Department, Punjab. On 31.8.1992 he caused an accident while he was driving Tipper/Tanker-truck/a heavy vehicle of the Department causing injuries to two persons. On that account FIR under Sections 279,338,427 IPC was registered. A claim petition was also filed under the Motor Vehicles Act, 1988. The petitioner was party in the Motor Accident claims case. He contested the same. Ultimately the Motor Accident Claim Petition was decided against the petitioner and a liability of Rs.1,20,000/- with interest was imposed upon the owner as well as the driver (petitioner). The Motor Accident Claims Tribunal, categorically recorded a finding against the petitioner about his negligence in causing the said accident and held him liable for the said accident. The said finding was recorded in presence of the counsel

for the petitioner. Against the said award, the claimant filed FAO No. 611 of 1996 in which compensation was enhanced to the tune of Rs.1,42,000/- vide order dated 30.7.2001. The petitioner never challenged the said award dated 4.9.1995 passed by the Motor Accident Claims Tribunal. Subsequently the Department ordered the recovery of the said amount from the petitioner i.e. 50% of the said amount from the petitioner after issuing him show cause notice and later on started recovery of the said amount from his salary i.e. Rs.3500/- per month.

When this writ petition was admitted no stay was granted. It has been stated that the entire amount has been recovered and the petitioner has also retired from service. Now the only question raised by learned counsel for the petitioner is whether the amount of compensation awarded to the victim in the Motor Accident Claim case can be recovered by the Department, who is the owner of the vehicle from the driver of the vehicle due to whose negligence the accident was caused. In the present case the accident was caused due to negligent driving by the petitioner who was not even authorized to drive the vehicle as he was employed as a cleaner and not a driver but inspite of that he drove the official vehicle and caused accident which resulted into the causing of injuries to two persons for which compensation was awarded, where the Department was also made liable to pay the said amount jointly and severally. This issue has already been considered and decided against the petitioner in Gurmeet Singh Versus The State of Punjab and others 2013(2) Law Herald 1348, Jaswant Singh Versus State of Haryana and others 2005(2) SCT

710 and Sampuran Singh Versus The State of Punjab and another 2009

(5) SLR 22.

In view of the above, we do not find any illegality in recovering the aforesaid amount by the Department from the driver of the vehicle.

Since now the Government vehicles are being insured by the Department, learned counsel for the petitioner does not press the prayer for quashing of Section 146(2) of the Motor Vehicles Act, 1988.

(SATISH KUMAR MITTAL)
JUDGE

06.01.2015
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(DEEPAK SIBAL)
JUDGE