

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

FAO No.4029 of 2012 (O&M)

Date of Decision: 07.05.2015

The Oriental Insurance Co. Ltd.

.....Appellant

Versus

Bathu Paswan and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Rohit Goswami, Advocate for
Mr. Vinod Chaudhri, Advocate,
for appellant.

Mr. Vikram Bali, Advocate,
for the respondent No.1.

Mr. J.B.S.Gill, Advocate,
for respondent No.2.

SHEKHER DHAWAN, J

Appellant-Insurance company challenged the award dated 02.03.2012 passed by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred as 'The Tribunal') on the ground that 'The Tribunal' has completely ignored the fact that motor vehicle accident was because of contributory negligence but the driver and owner of bus was not impleaded and no liability was fastened upon them. Appellant also challenged that 'The Tribunal' has awarded higher amount of compensation.

2. Mr. Rohit Goswami, learned counsel for appellant took the plea

that as per findings recorded by 'The Tribunal' under issue No.1, the accident had taken place involving Bus No. PB-12E-9998 and bus No.PB-07L-9685. Claimant was travelling in bus No.PB-12E-9998 but still no liability has been fastened upon driver and owner of bus No.PB-07L-9685. More so the claimant failed to produce any bus ticket so as to establish that he was actually travelling in the bus which met with accident, so the findings recorded by 'The Tribunal' be reversed/modified.

3. While arguing on this point Mr. Vikram Bali, learned counsel for claimant/respondent No.1 took the plea that 'The Tribunal' has not taken into account the future earnings, enhanced future earnings of the claimant and on that account the amount of compensation be enhanced suitably.

4. Mr. J.B.S.Gill, learned counsel for respondent No.2 took the plea that the amount of compensation has already been given whereas respondent No.3 has already died. The appeal is without any merit and same be dismissed.

5. Having considered the rival contentions raised by learned counsel for the parties, this Court is of the considered view that 'The Tribunal' after appreciating the oral evidence available on file correctly recorded the finding that respondent No.3 who was driving bus No.PB-07L-9685 was in fact the offender and the accident had taken place because of his rash and negligent driving. More so FIR was registered against him and he was facing the trial and on that account appeal filed by insurance company does not deserve any merit.

6. As regards to the plea taken by learned counsel for appellant that the claimant was not having any ticket so as to establish that he was actually travelling in the bus involved in the accident. 'The Tribunal' had

rightly came to the conclusion that the same fact was duly explained by the claimant that he had received greivous injuries and as such he was not in a position to preserve the ticket whereas sufficient time had already passed when he met with the accident as the accident had taken place in the year 2005.

7. As regards to the plea taken by learned counsel for respondent No.1 regarding enhancement of compensation, keeping in view the future enhanced income, 'The Tribunal' has already awarded 'Just Compensation'. Keeping in view the entire evidence available on file the present appeal does not deserve any merit.

8. In view of the above, the present appeal is without any merit and same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 07, 2015
msd