

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. **FAO No. 1108 of 2002 (O&M)**
Date of Decision : 25.07.2016

Hans RajAppellant

Versus

Union of India and othersRespondents

2. **FAO No. 1109 of 2002 (O&M)**

Khano DeviAppellant

Versus

Union of India and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Monika Arora, Advocate
for Mr. Pritam Saini, Advocate
for the appellants.

Ms. Gehna Vaishnavi, Advocate
for respondent no. 1-UOI.

Surinder Gupta, J.

Above-captioned appeals have been taken up together for disposal by this common judgment as these have been filed relating to injuries suffered by claimants-appellants on 10.12.1995 in a motor vehicle accident.

2. To avoid repetition, the facts are being extracted from FAO No. 1108 of 2002.

3. Claim petition filed by appellant Hans Raj for the injuries suffered by him in a motor vehicle accident with a military truck, was dismissed by Motor Accident Claims Tribunal, Kurukshetra as there was no evidence regarding identity of the vehicle involved in the accident or of the driver of that vehicle.

4. Case of claimant, in brief, is that on 10.12.1995, he alongwith his

wife and other persons was travelling in car bearing registration no. CK-5755,

which was being driven by Janak Raj. At about 08.00/08.30 p.m., when they reached on Masana bridge on G.T. road, in the area of Police Station Sadar, Thanesar, military truck belonging to Union of India came from opposite side. It was being driven by its driver in a rash and negligent manner and dashed against the car of claimant resulting in death of Sardaro Devi and injury to other occupants of car. The driver of military truck fled away from the spot alongwith his truck. The matter was reported to police vide FIR No. 421 dated 11.12.1995, registered at Police Station Sadar, Thanesar.

5. In FIR registered at Police Station Sadar, Thanesar, after investigation, the vehicle which caused the accident could not be traced and the police filed untraced report.

6. On behalf of Union of India, it was presented that in the absence of number and unit of the Army vehicle or details of the truck involved in the accident, it was not possible to pinpoint the driver or vehicle, which as per claimant, was involved in the accident. The possibility that some private vehicle of olive green colour may have hit the car which claimant presumed to be an army vehicle cannot be ruled out. Station Headquarter, Ambala was also not in possession of any information about any army vehicle concerning this accident involved in the accident.

7. Not satisfied, claimants have preferred these appeals.

8. Learned counsel for appellants has argued that claimant-appellant is alleging that the accident took place in which one life was lost. Claimant-appellant is alleging that the accident was caused by an army vehicle but he was not having any details of the same. The onus was on respondent no. 1- Union of India and respondent no. 2-Chief of Army staff to locate the vehicle and apprise the Tribunal of the real facts but it has failed to discharge its

description of the vehicle involved in the accident, could not be a reason to disallow claim of compensation by claimant.

9. It is unfortunate case where an accident had taken place but the vehicle involved was not identifiable. In the absence of any description of the vehicle involved in the accident, it was not possible for respondent no. 1 to come up with any specific plea. I have tried to take assistance of learned counsel for the appellant to have some information about the vehicle involved in the accident but during course of arguments, learned counsel for the appellant could not make out as to what is the basis for claimant to allege that an army vehicle was involved in the accident. If some army convey was moving in that area on the relevant date, claimant could certainly call for the relevant record from Station Headquarter, Ambala. Learned counsel for respondent no. 1 submits that an officer of the Station Headquarter, Ambala, present in Court, had apprised that despite best efforts to help claimant, no evidence could be found of involvement of any army vehicle in the alleged accident. In the absence of any evidence on record, the Tribunal has rightly expressed its helplessness to reach the conclusion that the accident was caused by the army vehicle, if so, which vehicle was involved and further that it was caused due to rash and negligent driving of army vehicle by its driver.

10. On perusal of award, I find no legal or factual infirmity therein calling for any interference in this appeal, which has no merit.

Dismissed.

July 25, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether Speaking/Reasoned

Yes/No.

Whether Reportable

Yes/No.