

203.

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

FAO No.162 of 1997 (O&M)

Date of decision:09.05.2016

Himachal Road Transport Corporation, Nalagarh (Himachal Pradesh), through its General Manager.

... Appellant

versus

Gian Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. L.M. Suri, Senior Advocate,
with Ms. Rajni Paul, Advocate,
for the appellant.

Mr. M.S. Saini, Advocate,
for Mr. Gunjan Rishi, Advocate,
for respondent No.1.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. It is an unusual case where the Tribunal Judge allowed a full flight to fantasy to award a compensation in a case of claim for injuries alleged to have been suffered in a motor accident. The claimant contended that while he was standing by the side of the road of Kurukshetra Bus Stand, a bus belonging to Himachal Pradesh Road Transport Corporation dashed against him and crushed his foot. He was taken to the hospital on the same day on

29.12.1994 in an unconscious state and after he regained his consciousness, he came to know about the involvement of the vehicle with the registration number by looking at a slip of paper that had been inserted in his pocket by the doctor. The slip said to have been found in the pocket was the basis on which the claim was made to implicate the driver and the Corporation. Admittedly, there was no FIR or DDR recorded. The Tribunal believed that Himachal Pradesh Road Transport Corporation was admittedly plying on the road on that day and if there was no enmity between the claimant and the driver, the claimant's assertion must be taken to be true.

2. The award suffered from the vice of the legal reasoning, for, the Tribunal failed to pose a right question to secure the answer from the claimant. There is no credible information available as to why the police complaint was not given. It is again unusual that there was not anyone eyewitness. The Tribunal was looking for an enmity which is wholly unnecessary, for all that the claimant could be interested to secure a compensation for some injuries. The claimant stated that red colour bus dashed against him and there was evidence that the bus that belonged to the Corporation had a blue and white combination of colours for the bus. The Tribunal discarded this variance by stretching the logic that no proof was given that on the relevant date it was only blue and white and not red. There was no evidence about the source of information to the

doctor about the involvement of HPTC bus for him to prepare a slip and insert it in the shirt pocket of the claimant. The said doctor was also not examined.

3. The counsel for the respondent seeks to support this reasoning from the perspective of how the defendant having admitted that the Corporation bus was plying through Kurukshetra on that day did not give any evidence that the vehicle could not have been involved. In my view, it is strange line of reasoning to pick out the lone statement that the Corporation bus used to ply through Kurukshetra to make it liable. Both the driver and the conductor of the bus had been examined, who denied the involvement of the bus in any accident. The Corporation cannot be made liable for all the buses running in various routes by reference to the fact that anyone along the route was injured. The evidence is too flimsy for a court to accept about the involvement of the vehicle.

4. Even the nature of injuries said to have been suffered as stiffness in both the knees and the partial loss of movement in the ankle could not be related to a crush injury. The doctor's evidence was such a stiffness was possible due to osteoarthritis as well.

5. The order passed by the Tribunal is unsupportable and I set aside the same. The appeal is allowed on the above terms.

(K.KANNAN)
JUDGE

09.05.2016
sanjeev