

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

**FAO No.2606 of 1999**

**Date of Decision: February 26, 2016**

Manjit Kaur

....Appellant

Vs.

Gurlal Singh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

**Present:** Mr. Gaurav Sharma, Advocate  
for the appellant.

Mr. Tarundeep Kumar, Advocate  
for Mr. D.S. Pheruman, Advocate  
for respondents No.1 and 2.

**Amol Rattan Singh, J (Oral)**

The claimants before the Motor Accident Claims Tribunal, Faridkot, are in appeal against the impugned award dated 04.12.1998, by which though the appellants-claimants were held entitled to compensation of Rs.4,75,000/-, on account of the death of Mohinder Singh, husband of appellant No.1 and father of appellant No.2, in a motor accident which is stated to have taken place on 01.01.1995, with a bus bearing Regd. No.PAB-4002. However, with the actual owner of the said offending vehicle (PAB-4002), as determined by the Tribunal, and the driver thereof not having been impleaded, the respondents who were impleaded before the Tribunal were held to be not liable to pay compensation.

It is seen that, before the Tribunal, one Gurlal Singh was impleaded as respondent No.1, as driver of the offending vehicle and Balwinder Singh and Gavinder Singh sons of (another) Mohinder Singh, were impleaded as owners of the aforesaid bus, alongwith an insurance company, whose name was not disclosed by the other respondents, before

the Tribunal. The Tribunal came to a finding that the bus was actually owned by one Jaswinder Singh and was driven by one Lal Singh son of Tara Singh, both of whom were not impleaded as respondents before the Tribunal.

After notice was issued in this appeal, by a Division Bench on 17.01.2000, notice was also issued in Civil Misc. Application No.13831-CII of 1999, by which the aforesaid Lal Singh and Jaswinder Singh were sought to impleaded as party.

Eventually, vide order dated 24.04.2001, the aforesaid persons (Lal Singh and Jaswinder Singh) were impleaded as respondents No.1 and 2 respectively, with the original respondents No.1 to 3, i.e. Gurlal Singh, Balwinder Singh and Gavinder Singh, having been deleted from the array of parties, vide order dated 04.09.2000.

Learned counsel for the appellants submits that since the Tribunal had come to a finding that Lal Singh was the driver of the offending vehicle (PAB-4002) and Jaswinder Singh was the owner thereof and had also determined the compensation to be paid, this Court would simply direct the said two respondents and their insurance company, if any, to make payment to the appellants, after enhancing the same suitably.

Learned counsel for respondents No.1 and 2, on the other hand, submits that the respondents never having been put into the witness box or even given a chance to defend themselves, they cannot be fastened with liability, simply on the basis of a finding given by the Tribunal in their

absence.

I find the argument made by the learned counsel for the respondents to be tenable, inasmuch as the findings given by the Tribunal are based on oral evidence led before it, but with respondents No.1 and 2 (Lal Singh and Jaswinder Singh), not even being party before the Tribunal. Thus they had no opportunity whatsoever, to rebut any of the contentions made, or to cross examine any of the witnesses who said that it was Lal Singh who was driving the bus and that the negligence in the accident was that of Lal Singh (respondent No.1).

Even though the accident is stated to have taken place on 01.01.1995, i.e. more than 21 years ago, however, since pendency of the appeal before this Court since 1999 is not the fault of the parties, I deem it proper to remit the matter to the Motor Accident Claims Tribunal, Faridkot, to proceed afresh in the claim petition before it, taking respondents No.1 and 2 to be the respondents now impleaded by this Court. Liberty would be given to the said respondents, to give the name of the insurance company of the offending vehicle (PAB-4002), if any, upon which the said insurance company would be impleaded as respondent No.3 and the matter thereafter proceeded with.

The parties would be at liberty to take all pleas as are available to them, before the Tribunal.

The findings of the Tribunal, while deciding the claim petition vide its award dated 04.12.1998, would not be taken as final and conclusive

findings, in view of the fact that the matter has been ordered to be heard completely afresh by this Court.

**February 26, 2016**

vcgarg

**(AMOL RATTAN SINGH)  
JUDGE**