

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

(1)

**FAO No.3704 of 1999
Date of decision : 03.03.2016**

The Haryana State Electricity Board

.....Appellant

Versus

Lal Singh and others

...Respondents

(2)

**CR No.5534 of 1999
Date of decision : 03.03.2016**

The Executive Engineer, Central Stores

.....Petitioner

Versus

Vijay Krishan and others

...Respondents

(3)

**CR No.5535 of 1999
Date of decision : 03.03.2016**

The Executive Engineer, Central Stores

.....Petitioner

Versus

Hari Ram and others

...Respondents

(4)

**CR No.5624 of 1999
Date of decision : 03.03.2016**

The Executive Engineer, Central Stores

.....Petitioner

Versus

Raj Mal and others

...Respondents

(5)

FAO No.3151 of 1999

Date of decision : 03.03.2016

The Executive Engineer, Central Stores

.....Appellant

Versus

Vinod Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. H.S. Gill, Senior Advocate with
Mr. Nitin Rampal, Advocate for appellant
in FAO No.3704 of 1999, for petitioner in CRs No. 5534, 5535
5624 of 1999 and FAO No.3151 of 1999.

Mr. Joginder Sharma, Advocate for respondent No.2-
Surinder Kumar in FAO No.3704 of 1999, for respondent No.3
in CRs No.5534, 5535, 5624 of 1999 and FAO No.3151 of
1999.

Mr. Sailender Singh, Advocate for respondent No.5-
Raj Kumar in CRs No.5534, 5535, 5624 of 1999 and FAO
No.3151 of 1999.

Mr. Rohit Goswami, Advocate for
Mr. D.P. Gupta, Advocate for respondent No.3
in FAO No.3704 of 1999, for respondent No.4 in CRs No.
5534, 5535, 5624 of 1999 and FAO No.3151 of 1999.

Mr. Pardeep Goyal, Advocate for respondent No.4
in FAO No.3704 of 1999, for respondent No.6 in CRs No.
5534, 5535, 5624 of 1999 and FAO No.3151 of 1999.

Mr. Ravinder Arora, Advocate with
Mr. Neeraj Khanna, Advocate for respondent No.3 in FAO
No.3151 of 1999.

DARSHAN SINGH, J.

This judgment of mine shall dispose of FAO No.3704, CR No.5534, CR No.5535, CR No.5624 and FAO No.3151 of 1999, as all these appeals/revisions have arisen out of the same award dated 06.08.1999, passed by learned Motor Accidents Claims Tribunal, Hisar (hereinafter called the Tribunal).

2. Mr. H.S. Gill, learned Senior Advocate contended that the liability has been wrongly fastened upon the appellants-petitioners. Though the accident has taken place due to rash and negligent driving of Lal Singh, the driver of truck bearing registration No.HR-20-7785. He contended that even the FIR Ex.P37 was registered against respondent No.1 the driver of the truck on the statement of PW9 Vijay Krishan the injured.

3. Thus, he contended that registration of criminal case against the driver of the truck and the evidence brought on record shows that respondent No.1 Lal Singh, the driver of the truck was the sole author of this accident and the learned Tribunal has wrongly held Raj Kumar the driver of Matrdor bearing registration No.HR-20-8518 contributory negligent for causing this accident.

4. On the other hand, learned counsel for respondent No.2 contended that mere registration of the criminal case will not establish the sole negligence of respondent No.1 Lal Singh. The accident has taken place in the middle of the road. It is a head on collusion. The road was sufficient wide which shows that Raj Kumar, the driver of the Matador was contributory negligent.

5. I have duly considered the aforesaid contentions.

6. There is absolutely no dispute with the proposition of law that mere registration of the criminal case does not establish the negligence. The negligence has to be established from the evidence adduced before the Tribunal. In a latest judgment titled as ***Kamlesh and others Vs. Attar Singh and others 2016(1) RCR (Civil) 24***, the Hon'ble Apex Court has laid down that though the police has registered a case against the driver of the Tempo and filed the charge sheet but the same cannot be said to be conclusive. In the instant case, two vehicles are involved i.e. the truck bearing registration No.HR-20-7785 driven by respondent No.1 Lal Singh and Matador bearing registration No.HR-20-8518 driven by Raj Kumar. Raj Kumar the driver of the Matador has stepped into the witness box as PW5. He admitted that there was head on collision between both the vehicles. He admitted that he was working just as a Chowkidar in Haryana State Electricity Board, Hisar and he was authorised by the Superintending Engineer to drive the vehicle on the date of accident. However, no such authority letter could be brought on record. The statement of PW1 Suresh Kumar Medical Officer shows that Raj Kumar the driver of the Matador was smelling alcohol and he has consumed alcohol. PW7 Vinod Kumar has admitted that there was head on collision between both the vehicles. PW9 Vijay Krishan, on whose statement the criminal case has been registered, stated that the road was wide enough and three vehicles could cross at one time. PW10 Rajmal also admitted that two vehicles could cross easily at one time at the place of accident. From the aforesaid statement, it is established that the present accident was head on collision between the two vehicles and the place of accident was wide enough where two vehicles could easily pass at the same

time. PW9 Vijay Krishan, on whose statement the FIR has been recorded, deposed that he cannot tell whether the driver of the pickup van was at fault or not.

7. Thus, keeping in view my aforesaid discussion, I do not find any error in the conclusion arrived at by the learned Tribunal that the driver of both the vehicles were equally contributory negligent for causing the accident.

8. Consequently, the present appeals/revisions are without any merits and the same are hereby dismissed.

03.03.2016
sunil yadav

(DARSHAN SINGH)
JUDGE