

205.

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

FAO No.4534 of 2009 (O&M)

Date of decision:15.02.2016

Managing Director Punjab State Bus Stand Management Company,
Jeevandeep Building, Sector 17, Chandigarh.

... Appellant

versus

Bhag Chand and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Pritam Saini, Advocate,
for the appellant.

Mr. K.S. Chaudhary, Advocate,
for respondents 1 and 2.

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. A pillion rider in a motorcycle was hit by the appellant-bus. The boy aged 11 died in the accident. The Tribunal has assessed a compensation of ₹4,13,000/-.

2. The appellant's contention is that the driver of the motorcycle had contributed to the accident. As far as the pillion rider is concerned, it was a case of composite negligence and no part of claim could abate even if the rider of the motorcycle had contributed

to the same. The owner-driver of the motorcycle was not even made a party. Any finding of contributory negligence in the absence of party cannot bind the said party and the liability of the State Corporation cannot abate to any extent, for, the act of negligence of the driver of the bus is clearly established. There is no scope for interference. The appeal is dismissed.

3. It shall be open to the State Corporation/appellant to proceed against the owner and driver of the motorcycle, if so advised, through an independent suit to seek for contribution if it can establish that there was any contributory negligence on the part of the driver of the motorcycle.

(K.KANNAN)
JUDGE

15.02.2016
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