

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

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FAO 1889 of 2014 (O&M)
Date of decision: 15.07.2017

Amar Singh Chawal Wala

..... Appellant

Versus

Sarwan Singh and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. D P Gupta, Advocate
for the appellant

Mr. Sandeep Wadhawan, Advocate
for the respondents

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

Rekha Mittal, J. (Oral)

The present appeal has been directed against award dated 11.12.2013 passed by the Motor Accident Claims Tribunal, Amritsar (for brevity, 'the Tribunal') whereby liability to pay compensation has been fastened upon the appellant along with driver and owner of the alleged offending vehicle Tractor bearing registration No. PB E-1258.

The sole submission made by counsel for the appellant is that in the claim petition filed by the claimants themselves, the appellant was impleaded as respondent No. 3 and goods stated to be overloaded in the alleged offending vehicle shown to be of the appellant. It is argued with vehemence that in view of the provisions of Section 168 of the Motor

Vehicles Act, 1988 (in short, 'the Act'), liability to pay compensation shall be of the insurer or owner or driver of the vehicle, involved in the accident or by all or any of them, as the case may be. It is further argued that as the present appellant was neither the owner, driver nor insurer of the offending vehicle, no liability under Section 168 of the Act, 1988 can be fastened upon him.

Counsel for the respondents is not in a position to refer to any relevant provision in law or a precedent that a claim petition filed under Section 166 of the Act 1988 can be allowed other than against the driver, owner and insurer of the offending vehicle.

In this view of the matter, I find merit in contention of the appellant that liability to pay compensation fastened upon him, cannot be allowed to sustain and award passed by the Tribunal fixing liability upon respondent No. 3 in the claim petition (appellant herein) is liable to be set aside and ordered accordingly.

It is, however, clarified that exonerating respondent No. 3/appellant (Amar Singh Chawal Wala) would not in any manner affect liability of the driver and owner of the offending vehicle. An amount of Rs.25,000.00 deposited by the appellant under Section 173 of the Act shall be refunded, as per law.

A copy of the Judgment be sent to the Tribunal concerned.

(Rekha Mittal)
Judge

15.07.2016
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