

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**1. FAO No. 2916 of 2016 (O&M)
Date of Decision : 15.07.2016**

Pepsu Road Transport CorporationAppellant

Versus

Dharam Dass and othersRespondents

2. FAO No. 2867 of 2016 (O&M)

Pepsu Road Transport CorporationAppellant

Versus

Gagandeep Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Harsh Aggarwal, Advocate
for the appellant.

Surinder Gupta, J.

These are the appeals filed by Pepsu Road Transport Corporation against award dated 15.01.2016 passed by Motor Accident Claims Tribunal, SAS Nagar Mohali (later referred to as 'the Tribunal') awarding compensation of ₹9,17,000/- for death of Hema Devi in MACT No. 90 of 31.07.2014 and ₹34,25,000/- for death of Preeti in MACT No. 89 of 31.07.2014 in a motor vehicle accident with bus of appellant bearing registration No. PB-03-U-9974 (later referred to as 'the offending vehicle'). Both the appeals relate to same accident, as such, have been taken up together for disposal by common judgment.

2. As per claimants, the accident took place on 29.06.2014 at about 08.40 a.m., when the offending vehicle hit car no. PB-03-U-5387 in which Preeti (deceased) was going towards Bathinda at normal speed alongwith her mother-in-law Hema Devi and her son Dariush. Preeti and

her mother-in-law died at the spot while her son Dariush suffered grievous injuries.

3. Learned counsel for appellant while not disputing the accident has argued that the finding recorded by Tribunal that it was caused due to negligence on the part of driver of offending vehicle is not based on evidence on record.

4. The Tribunal observed that the accident was caused due to rash and negligent driving of offending vehicle by its driver i.e. respondent no. 4- Nazar Khan. Income of the deceased Hema Devi was assessed as ₹6000/- per month as housewife and compensation of ₹9,17,000/- was allowed while income of deceased Preeti, who was running finance company, was taken as ₹2,00,000/- per annum on the basis of income tax return filed by her for the year 2013-14.

5. Learned counsel for appellant has assailed the award on the ground that version of accident as given by claimant was contradictory. In the FIR, it is mentioned that a bus coming from the side of Bathinda hit the car of Preeti when they were at a distance of 4 kilometers from Tapa Mandi. In para 23 of claim petition, the manner of accident was not described but while appearing as witnesses, claimants have stated that the offending vehicle was going ahead of them and rammed into the car of Preeti which means that the bus had hit the car of deceased from behind. If the bus was coming from Bathinda and claimants were going to Bathinda, it should have been a head-on collision. Secondly, it is not believable that Preeti alongwith her mother-in-law and son was going in a separate car and claimant alongwith his father was going in a separate car and following the car of Preeti. This appears to be a made up story.

29.06.2014 was registered at Police Station Tapa Mandi, wherein claimant had categorically stated that the offending vehicle hit the car of Preeti resulting in death of Preeti and her mother-in-law and injuries to Dariush, son of claimant Gangandeep Singh. In para 23 of claim petition, the accident was described as follows (as reproduced in para 6 of grounds of appeal):-

“23. Cause of accident with brief description:- On 29.06.2014, Preeti deceased was going on car bearing no. PB-03-U-5387 driving towards Bathinda at normal speed. In said car her mother-in-law Hema Devi and her children were sitting. When at about 08.40 a.m., respondent no. 3 came driving at very high rash speed and in negligent manner his offending bus bearing no. PB-03-U-9974 and hit the above said car as a result of which Preeti and her mother-in-law Hema Devi died and her child suffered grievous injuries and now he is admitted in PGI, Chandigarh. The accident took place due to rash and negligent driving of respondent no. 3.”

7. The accident is admitted. The plea taken by appellant and driver of the offending vehicle is that the accident was caused due to rash and negligent driving of car by Preeti (deceased). However, no evidence to this effect was produced. Even driver of the offending vehicle had not appeared to give his own version regarding the accident. Claimants while appearing as PW-1 and PW-2 have stated that “when both of our cars were about 4 kilometers away from *Tapa Mandi* then at about 08.40 a.m., PRTC bus no. PB-03-U-9974, being driven by respondent no. 4 was moving ahead of us,

which was being driven by its driver in a very rash and negligent manner

and without blowing any horn. He rammed his bus into said car.”

8. Learned counsel for the appellant has tried to make out from the above statement that bus rammed into the car of deceased-Preeti from behind. The bus had rammed into car and accident is not denied. In the absence of any evidence about the manner of accident, produced by appellant, the statement of eye-witnesses cannot be discarded or disbelieved. Moreover, this fact could be got clarified by the appellant in cross-examination as to why the claimants and deceased were travelling in two separate cars. When the accident is admitted and the eye-witnesses are stating that it was caused due to rash and negligent driving of driver of the offending vehicle against whom a criminal case was also registered, there was no reason to disbelieve their statements particularly in the absence of any evidence to the contrary. Tribunal has committed no error of law or fact while concluding that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver.

9. No other argument has been raised by learned counsel for the appellant during the course of arguments.

10. As a sequel of my discussion above, both the appeals have no merit and the same are dismissed.

July 15, 2016
jk

(SURINDER GUPTA)
JUDGE