

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

FAO No.3309 of 2016(O&M)

Date of decision:8.7.2016

Magma General Insurance Co. Ltd.Appellant

VERSUS

Harpinder Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

Present: Mr. Pankaj Mehta, Advocate for the appellant.

REKHA MITTAL, J.

The present appeal has been directed against the award dated 23.03.2016 passed by the Motor Accident Claims Tribunal, Ludhiana (for brevity 'the Tribunal') whereby Neeraj Maurya –respondent No.6 has been awarded compensation to the tune of Rs.31,525/- in respect of injuries sustained by her in a motor vehicular accident on 02.12.2014.

The sole submission made by counsel for the appellant is that the claimant has raised a specific plea that the bus driver bearing No.PB-07-AL-2295 was also negligent for causing the accident, thus the present is a case of contributory negligence, therefore, the learned Tribunal has committed a gross error by fastening liability to pay the entire compensation upon the appellant, insurer of truck bearing No.PB-10-BE-8918.

I have heard counsel for the appellant and perused the award passed by the learned Tribunal.

As per plea of the claimant, on 02.12.2014, she along with her husband Vicky Maurya (since deceased in the same accident), her mother, sister and a minor son of her sister were travelling back from Hoshiarpur to Ludhiana in bus bearing No.PB-07-AL-2295. At about 2 PM, the bus reached near village Simbli, P.S. Mantiana, District Hoshiarpur and the driver stopped the bus at a side of the road. Truck bearing No.PB-10-BE-8918 struck against the bus from behind while it was driven by Harpinder Singh, in a rash and negligent manner resulting in multiple grievous injuries sustained by the claimant and her husband.

Assuming that the bus driver can also be attributed some negligence in causing the accident, the same does not amount to be a case of contributory negligence because in that eventuality, it would be a case of composite negligence. In a case of composite negligence, the claimant has the option to seek compensation from any of the two vehicles involved in the accident when otherwise the Tribunal is not obligated to decide the question of apportionment by the vehicles involved in the accident. That being so, I do not find any reason to interfere in the award impugned.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in *limine*.

JULY 8, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE