

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

(1)

**FAO No.4786 of 2015 (O&M)
Date of Decision: March 18, 2016.**

Sokat Ali and another

.....APPELLANT(s).

VERSUS

Ranjit Singh and others

.....RESPONDENT(s).

(2)

FAO No.5438 of 2015 (O&M)

Sokat Ali and another

.....APPELLANT(s).

VERSUS

Rajinder Singh

.....RESPONDENT.

(3)

FAO No.5865 of 2015 (O&M)

Sokat Ali and another

.....APPELLANT(s).

VERSUS

Virender Singh

.....RESPONDENT.

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Dhriti J. Sharma, Advocate
for the appellant (s).

SURINDER GUPTA, J.

The above captioned appeals have been filed by driver and

owner of bus bearing registration No.HP-02-1590(later referred to as 'the offending vehicle') against the award dated 07.11.2014 passed by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari allowing compensation for the death of Gurpreet Singh and injuries to Rajinder Singh and Virender Singh in a motor accident with the offending vehicle. As the offending vehicle was not insured, the Tribunal made the appellants personally liable to pay the amount of compensation.

Learned counsel for the appellants has assailed the finding recorded by the Tribunal that the accident had taken place due to rash and negligent driving of the offending vehicle. She has argued that deceased Gurpreet Singh, injured Rajinder Singh and Virender Singh were going in triple riding on the motorcycle in violation of the traffic rules and were also not wearing helmets. This shows that they were negligent and not appellant No.1 Sokat Ali, driver of the offending vehicle. The Tribunal has relied on the sole testimony of PW3 Jaswant Singh while reaching the conclusion that accident had taken place due to rash and negligent driving of offending vehicle by its driver (appellant No.1) which is not sustainable.

On perusal of the award, I find no merit in the submission made by learned counsel for the appellants. The accident took place on 17.08.2012 when Virender Singh and Rajinder Singh along with Gurpreet Singh were returning from village Chhappar to their native village Rajpura on a motorcycle, being driven by Virender Singh. When they reached near Mazar in the area of village Gadhoula, the offending vehicle came from the side of village Bhamboli. PW3 Jaswant Singh, who was on his motorcycle

behind the motorcycle of victims while appearing as PW3 has narrated the

manner in which the accident had occurred. Testimony of PW3 was corroborated by injured witness namely Rajinder Singh who appeared as PW5 and PW7 Virender Singh. A criminal case was also registered against Sokat Ali, driver of the offending vehicle in which police, after investigation, presented challan and he faced trial in that case.

On the other hand, respondents did not produce any evidence despite availing opportunities. The respondents in their written reply have denied the accident.

In their statements, PW3 Jaswant Singh, injured PW5 Rajinder Singh and PW7 Virender Singh have stated that the offending vehicle came from the side of village Bhamboli at a very high speed and came on wrong side of the road and hit the motorcycle of victims. As the statement of these witnesses remained unrebutted, the Tribunal has rightly relied on the statement of these witnesses to reach the conclusion that the accident was caused due to rash and negligent driving of the offending vehicle by appellant No.1.

It is nowhere case of the appellants that motorcycle of the victims was either on the wrong side of the road or was being driven in a rash and negligent manner. Though triple riding is not permissible on a two wheeler and is violation of the provisions of Motor Vehicles Act and rules but the appellant cannot take any benefit of this fact when the accident was caused by appellant No.1 due to his rash and negligent driving of the offending vehicle.

Learned counsel for the appellant could not point out any evidence on record to show that deceased/injured were not wearing helmets

at the relevant time. It is quite unfortunate that appellant No.2 had allowed the bus to be plied on the road without getting the same insured. The plying of bus without insurance is offence punishable under Section 196 of the Motor Vehicles Act, 1988. Had the vehicle been insured, it would have caused safety and security for the passengers travelling in the vehicle and owner of the vehicle would have also sought to be indemnified by the insurance company for the lapse on the part of his driver.

The quantum of compensation as allowed by the Tribunal has not been challenged by learned counsel for the appellants during the course of arguments.

No other argument has been addressed.

In view of my above discussion, I find no legal or factual infirmity in the award passed by the Tribunal, calling for any interference.

All the three appeals captioned above are without merits and are ordered to be dismissed

March 18, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE