

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

**FAO No. 1789 of 1999 (O&M)
Date of Decision: October 09, 2017**

State of Haryana and another ..Appellant(s)

Versus

Parbati and others ...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. R.K. Singla, AAG, Haryana.

Mr. Shailender Kashyap, Advocate
for respondent no.5.

Mr. Randeep S. Dhull, Advocate
for respondent no.6.

ANITA CHAUDHRY, J.

This appeal is directed against the award dated 19.12.1998, passed by the Motor Accident Claims Tribunal, Panipat.

The present appeal had been filed by the State of Haryana as it is disputing its liability. The Tribunal had found composite negligence of drivers of both the vehicles but did not apportion the amount. The co-ordinate Bench had noted that in case of composite negligence, the entitlement to recover the whole amount from anyone of the tort-feasors for the benefit of the claimants was well established and the claimants could recover the amount from any of the respondents. Noticing this position of law, notice was issued only to respondents no.5 to 7.

The claimants were going in a bus owned by the Haryana Roadways. A jeep was coming from the opposite direction. The jeep driver was in the process of overtaking a scooter when the accident occurred. The claimants had stated that the bus was being driven at a high speed and they had asked the driver to slow down. The Tribunal noted that the bus was at a high speed and therefore, it turned turtle after the accident. The passengers fell out of the bus and were crushed under it. Both the drivers were held to be rash and negligent. The Tribunal failed to apportion the liability though held both the drivers responsible.

The appellants have failed to place on record any evidence or site plan to show the spot at which the accident had occurred. There is no infirmity in the finding that both the drivers were at fault. The fact that the bus had turned turtle, goes to show that it was being driven at a high speed. The finding cannot be faulted with. The Tribunal failed to apportion the liability. I would apportion the liability on both the vehicles at 50:50. The award is modified to this extent.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

October 09, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No