

In the High Court of Punjab and Haryana at Chandigarh

**Cross Objection-1-CII-2002 IN/AND
F.A.O No. 4 of 2000 (O&M)
Date of Decision: 20.11.2017**

Himachal Road Transport Corporation

.....Appellant

Versus

Seema Mahajan and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Neeraj Khanna, Advocate
for the appellant.

None for respondents No. 1 to 4/cross objectors.

None for respondent No. 5.

ANITA CHAUDHRY, J

This appeal is by the owner disputing its liability to pay the compensation.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Copy of the award and grounds of appeal are available. Counsel for the appellant has stated that the matter can be decided on the basis of the award and other available material.

Few facts are necessary. Munish Mahajan had died in an accident which occurred on 25.3.1998. As per the case set up by the claimants, he along with Sunil Kumar were standing by the side of the road at 2.30 P.M. when the bus belonging to Himachal Roadways came from Chaki bridge side and hit him and he fell and suffered injuries on the hip and other parts of the body. It was claimed that the driver stopped the bus

near the place of occurrence and apologized. Pankaj and Sunil ran to help the injured and took him to the hospital. The FIR was lodged the same day.

Respondents No. 1 and 2 in their joint written statement pleaded that Munish tried to board the running bus and the bus was at a speed and he died on account of his own negligence and the bus driver was not at fault. It was pleaded that one Rakesh Kumar a police official had given the signal to the bus as he wanted to board it and the police official boarded the bus and the bus had started and was in motion when Munish tried to get in the bus from the front door and fell down and sustained injuries.

The Tribunal gave a finding in favour of the claimants and disbelieved the statement of Ashok Kumar and Hans Raj and the driver and conductor.

The submission on behalf of the appellant is that the passengers who were travelling in this bus had supported the driver and had stated that the deceased himself was at fault and their statements should have been accepted and they had also produced the tickets.

On going through the award I find that the Tribunal had noted that the tickets which were produced were not even punched and on a reading of the statements given by the passengers I find that the witnesses are said to have contacted the driver and had provided their details and addresses and it was very normal for the driver to make a complaint to the higher authorities and to the police since there were witnesses who were willing to vouch in his favour. No complaint was given to the police authorities or to the higher officials. The appellant could not lead evidence

conductor on that day and that evidence was available with them. Merely producing some tickets would not enough as these tickets had not been punched. Therefore, veracity of the statements was rightly doubted. The driver and conductor did not give their names to any other person nor introduced that fact in the written statement and it is only at the evidence stage that those persons were brought for the first time. Their statements were rightly discarded. I find no reason to take a different view.

The appeal is dismissed.

Cross Objection-1-CII-2002

No one had put in appearance on behalf of the cross-objectors on the previous two dates and notice was issued to the counsel for the cross-objectors. The counsel had appeared on the last date and had sought date. Today no one has put in appearance on behalf of the cross-objectors.

Dismissed for non-prosecution.

**(ANITA CHAUDHRY)
JUDGE**

November 20, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No