

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

**Date of Decision: July 05, 2017
FAO No.2584 of 2017 (O&M)**

1.

The Oriental Insurance Company Limited

..... Appellant

Versus

Sadhu Ram and others

..... Respondents

2.

FAO No.2600 of 2017 (O&M)

The Oriental Insurance Company Limited

..... Appellant

Versus

Yash and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sanjiv Pabbi, Advocate
for the appellant(s).

DEEPAK SIBAL J. (ORAL)

**CM No.8560-CII of 2017 in FAO No.2584 of 2017 and
CM No.8625-CII of 2017 in FAO No.2600 of 2017**

After hearing learned counsel for the applicant/appellant and
for the reasons stated in the applications, the delay in filing the appeals is
condoned.

Main Appeals

Since *FAO No.2584 of 2017* and *FAO No.2600 of 2017* raise
similar issues of fact and law, both the appeals are being disposed of
through the instant common order.

On 30.11.2015, Satish Kumar was going on his scooty to drop
his wife Rajbala to a school in village Dubaldhan, District Jhajjar where
she was serving as a Teacher. At about 8:15 a.m., when they reached near

drain No.8, a bus coming from the opposite direction hit them and by the impact created on account of such accident, both Satish Kumar and Rajbala received multiple grievous and simple injuries on their persons, as a result of which, Satish Kumar died at the spot whereas Rajbala succumbed to her injuries while on the way to the hospital.

Yash-minor son of Satish Kumar and Rajbala and Sadhu Ram along with his wife Chanderpati, who are the parents of Satish Kumar, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') before the Motor Accident Claims Tribunal, Jhajjar (for short 'the Tribunal').

After considering the evidence led by the claimants as also the appellant-Insurance Company, the Tribunal came to a conclusion that Satish Kumar and Rajbala had died due to the accident between their scooty and the bus which was being driven in a rash and negligent manner. Amongst other evidence which had come on record, the Tribunal relied upon the deposition of PW-3 Ashish Kumar, eyewitness of the accident as also the FIR which was registered after the accident.

After having returned the above findings, the Tribunal assessed the amount of compensation to be paid to the claimants which was further directed to be paid jointly and severally by the respondents before the Tribunal.

The only contention raised before me by learned counsel for the appellant is that in the case in hand, the accident had taken place due to the contributory negligence on the part of Satish Kumar as also the driver of the bus and therefore, the claim as awarded by the Tribunal should be directed to be apportioned accordingly.

Learned counsel submitted that Satish Kumar while driving his scooty, wanted to overtake a tractor trolley and while attempting to do so, lost his control. Due to dense fog, there was a reflection of light of the bus coming from the opposite direction which resulted in the accident. Site plan exhibit R-1 was relied upon by the learned counsel to show that the accident had taken place in the middle of the road and therefore, it was clear that the same took place due to the contributory negligence of both Satish Kumar and the driver of the bus.

The above contention needs to be considered only to be rejected as in support thereof the appellant led no evidence whatsoever before the Tribunal. The site plan Ex-R/1 has also been perused by me which clearly depicts the place of accident through a *dot* (classified as (A)) which is clearly on the left side on the road.

No other point was raised.

In view of the above, no merit is found in the appeals being ***FAO No.2584 of 2017 - The Oriental Insurance Company Limited Vs. Sadhu Ram and others and FAO No.2600 of 2017 - The Oriental Insurance Company Limited Vs. Yash and others*** and resultantly both of them are dismissed.

July 05, 2017

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**(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No