

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

**RSA No.2655 of 1998 (O&M)
Date of Order:09.03.2018**

The State of Punjab and another

..Appellants

Versus

Amarjit Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Charanpreet Singh, AAG, Punjab
for the appellants.

Mr. Adarsh Jain, Advocate,
for the respondent.

ANIL KSHETARPAL, J(Oral)

Defendants-appellants-State of Punjab and its officials are in regular second appeal against the concurrent findings of fact arrived at by the courts below.

Plaintiff was employed as a driver and the vehicle being driven met with an accident. The learned Motor Accident Claims Tribunal after recording a finding that the plaintiff was rash and negligent in driving the vehicle, awarded compensation to the claimants. Subsequently, the Government of Punjab, ordered that the amount be recovered from the plaintiff. This order was challenged by the plaintiff by filing a suit.

Both the courts after appreciating the evidence available on the file, decreed the suit and set aside the order of recovery.

This court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the

courts below and the record.

Learned counsel for the State of Punjab has vehemently argued that once the learned Motor Accident Claims Tribunal has recorded a finding that the plaintiff was rash and negligent and the award was passed holding that the respondents before the Motor Accident Claims Tribunal are jointly and severely liable, therefore the order for recovery could be passed

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This court has considered the submission, however find no substance therein.

Plaintiff at that time was admittedly on duty when the accident took place. The Government of Punjab has not recorded any findings that the accident took place due to intentional act of the plaintiff. No inquiry was held before passing the order of recovery. Without recording a finding that the accident was caused due to some intentional act of the plaintiff, no recovery could be ordered.

Learned counsel for the State of Punjab has drawn attention of the court to the provisions of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 and has submitted that as per Rule 5 under the head Minor Penalties, recovery can be ordered from the pay of the employee if any pecuniary loss is caused by him to the Government by negligence or by breach of orders.

The rule itself provide that the Government has to record a finding that the pecuniary loss was caused on account of negligence or breach of orders. No finding in this regard has been recorded. Plaintiff has already been retired.

In view thereof, there is no scope for interference in the

concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

March 09, 2018

(ANIL KSHETARPAL)

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JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No