

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5546 of 2010(O&M)

Date of Decision: 06.03.2018

H.R.T.C., Himachal Road Transport
Corporation, Shimla (H.P.)

... Appellant

Versus

Smt. Guddi Devi & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Hitesh Pandit, Advocate,
for the appellant.

Respondents No.1, 4, 5, 6 & 7 already ex parte.

Mr. Mukesh Kaushik, Advocate,
for respondent No.8.

Mr. Neeraj Khanna, Advocate, for
Mr. Ravinder Arora, Advocate,
for respondent No.9.

RAMENDRA JAIN, J.(Oral)

Respondent No.5-Himachal Pradesh Road Corporation has filed the instant appeal against the impugned award dated 07.04.2010, holding it liable to pay compensation to the extent of 50% to respondents No.1 to 5-claimants in a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

Briefly stated, on 07.4.2008, Tilak Raj was travelling in the bus bearing registration No.HP-53-4062 owned by the appellant which met with an accident with a truck bearing registration No.HR-38A-9181 in the area of Village Samana Bahu, District Karnal. Resultantly, Tilak Raj suffered multiple injuries and succumbed to the same at the spot. FIR (Ex.PB) was registered qua accident in question.

During investigation, the Police found equal contributory negligence of the bus of the appellant as well as of the aforesaid truck.

Legal heirs of deceased Tilak Raj filed a claim petition under Section 166 of the Act for grant of compensation before the Motor Accident claims Tribunal, Rohtak (in short 'the Tribunal').

The Tribunal after holding trial, partly accepted the claim petition of respondents No.1 to 5-claimants and vide impugned award dated 07.04.2010 granted compensation of ₹13,10,000/- to them along with interest @ 7.5% from the date of filing of the petition till realization holding the liability of the appellant to pay compensation to the extent of 50%.

Learned counsel for the appellant *inter alia* contends that the learned Tribunal failed to appreciate that the offending truck had struck against the bus of the appellant from behind and therefore, it was the truck driver only, who was negligent and guilty for causing accident.

On the other hand, learned counsel for respondent No.8 has refuted the submission made by learned counsel for the appellant.

For the ready reference, para no.12 of the impugned award is reproduced under:-

“12. I have considered the rival contentions of the parties and I find that no site plan prepared by the Police has been produced by either of the parties. When the concerned Ahlmad has appeared, none of them have tried to ascertain the truth. There is statement of Shamsher Singh PW1 on one side and Balwan Singh and Ram Pal RW1 and RW2 on the other side. Balwan Singh RW1 was obviously interested to defend the driver of the bus because admittedly, the driver used to stay the bus at their Dhaba despite the Dhaba being situated on the

wrong side of direction in which the bus was to be taken. After evaluating the evidence of the parties, I find that after taking the meals, the driver of Bus had brought the bus on the road without bothering for the clearance of the road and that the truck was coming from the back side. In that situation, both the bus as well as truck has collided with each other. In such circumstances, initially the negligence was on the part of the bus driver, but the truck driver too was supposed to see the vehicle and to stop it. In these circumstances, the Police has rightly come to the conclusion that it was by both the drivers. I hold the same view and in the event of award being passed, both the sets i.e. respondents No.1 to 3 on one side and respondents No.4 and 5 on the other side shall be liable to pay the compensation to the extent of 50% each. The issue is decided accordingly.”

Having given considerable thought to the submissions made by both the sides, I find that the instant appeal is devoid of any merit for the reasons to follow.

The police during investigation found equal contributory negligence of the driver of the appellant's bus and driver of the offending truck as well. More so, the appellant or its driver never moved any application to the higher authorities of the police or to any other Government authority, complaining about the alleged tainted investigation of the Police. Meaning thereby the conclusion arrived at by the police after investigation was accepted by the appellant-Corporation and its driver.

Moreover, the appellant or its driver miserably failed to lead any contrary evidence to the investigation conducted by the police or to the stand of the claimants that driver of the bus of the appellant and of offending truck

as well were equally negligent in causing the accident resulting into death of Tilak Raj.

Learned counsel for the appellant has not raised any fruitful argument showing any infirmity or illegality in the conclusion arrived at by the learned Tribunal holding contributory negligence to the extent of 50% of the driver of the appellant's bus.

In view of discussion made above, this appeal stands dismissed.

06.03.2018
monika

(RAMENDRA JAIN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>