

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

**AT CHANDIGARH**

**F.A.O. No.2364 of 2013 (O&M)**

**Date of Decision: 24.04.2018**

Chand Singh

....Appellant (s)

Versus

Joginder Singh & others

Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA**

Present:- Mr. R.S. Pandher, Advocate  
for the appellant(s).

Mr. Sukhdarshan Singh, Advocate  
for respondent no.5-Insurance Company.  
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**HARI PAL VERMA, J. (Oral)**

The appellant, who is owner of bus No.PB-13N-4811, has filed the present appeal against award dated 02.11.2012 passed by the Motor Accident Claims Tribunal, Barnala (hereinafter referred to as “the Tribunal”), whereby, the respondent-claimants were awarded compensation of Rs.3,40,000/- on account of death of Tota Singh.

Briefly stated, on 11.07.2011, Tota Singh along with his brother Raj Singh had gone to Sehna to meet their sister Pal Kaur. On 12.07.2011, when they were going back to Barnala, they boarded bus No.PB-13N-4811. Since there was great rush of passengers in the bus, respondent no.1 and 2 i.e. driver and conductor respectively, asked the deceased Tota Singh to sit on the roof of the bus, whereas Raj Singh went

inside the bus, Tota Singh sat on the roof of the bus. Some other passengers were also sitting on the roof of the bus. The driver of the bus drove the bus at a very high speed in a rash and negligent manner, despite the requests made by the passengers including claimant no.2 – Raj Singh to slow down the bus. As the passage was shortened due to installation of girders on the road, the driver turned the bus at a fast speed towards the bus stand from the grain market and struck the bus against one such girder. Due to the impact, Tota Singh and other passengers, sitting on the roof of the bus, fell down. Then the bus was stopped. Tota Singh received injuries and was shifted to Civil Hospital, Barnala, but as his condition was serious, he was referred to Rajindra Hospital, Patiala, from where, he was shifted to Dayanand Medical College and Hospital, Ludhiana, where he succumbed to his injuries.

On account of death of Tota Singh, claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed, wherein the Tribunal, vide award dated 02.11.2012 granted a total compensation of Rs.3,40,000/- along with interest @ 6% per annum to the claimants. Liability was held to be joint and several amongst the driver, conductor, owner and the insurance company. However, the respondent-insurance company was granted the recovery rights from the appellant-owner.

Aggrieved from the aforesaid award, the appellant-owner has filed the present appeal.

Learned counsel for the appellant has argued that the Tribunal has ignored the fact that the deceased himself was responsible for the accident, as he alighted from the roof of the bus. The driver and conductor

of the bus neither permitted deceased Tota Singh to travel on the roof of the bus nor they were aware of the fact that Tota Singh was sitting on the roof of the bus. Moreover, if it was so, it was the fault of the driver and conductor of the bus. The appellant, being owner of the bus, is not liable to pay the compensation, as he is not at fault.

On the other hand, learned counsel for the insurance company has argued that since the driver and conductor of the bus had allowed the deceased to travel on the roof of the bus, they have acted against the insurance policy and therefore, the appellant-owner is liable to pay compensation to the claimants.

I have heard learned counsel for the parties and perused the impugned award.

The accident in question is not in dispute. The argument put forward by counsel for the appellant that since it was the fault of driver and conductor of the bus and the appellant, who is owner of the bus, is not liable to pay the compensation, cannot be accepted. There is no dispute that respondent no.3, driver and respondent no.4, conductor were employees of the appellant. In any case, if the appellant has any grievance with regard to this aspect of the matter, he had the remedy to avail.

Therefore, this Court finds no merit in the present appeal.

Dismissed.

April 24, 2018  
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( HARI PAL VERMA )  
JUDGE

Whether speaking / reasoned?  
Whether reportable?

Yes / No  
Yes / No