

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

F.A.O No. 5778 of 2014
Date of decision:-19.04.2018

New India Assurance Company Ltd. ...Appellant

Versus

Rachna Devi and Others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. J. S. Chatrath, Advocate,
for the appellant.

Ms. Akansha, AAG, Punjab.

Mr. Arvinder Singh, Advocate,
for respondent No.6.

RITU BAHRI J. (Oral)

Learned Counsel for the appellant filed the present appeal against the Award dated 01.05.2014 passed by the Learned Motor Accident Claims Tribunal, Hoshiarpur, (hereinafter referred to as 'the Tribunal') whereby claimants (respondents herein) have been awarded Rs.2,45,000/- as compensation on account of death of Dasondha Ram in motor vehicular accident which took place on 18.08.2011.

Brief facts of the case are that, on 18.08.2011, Dasondha Ram, since deceased, was travelling in a PUNBUS bearing registration No. PB-12-J-5915. He boarded bus from Bus Stand, Hoshiarpur and it was to leave for Baba Balak Nath. When the bus reached near Village Pandoga, a truck bearing No. HR-10-1087 was coming from the side of Una at a very high speed and being driven by respondent No.5- Naresh, in a rash and negligent

manner struck. The bus was also driven by respondent No.3-Santosh Kumar in rash and negligent manner. Both the vehicles struck by their sides and as a result thereof the bus was over turned. Due to this impact, number of persons received injuries and they were admitted to Civil Hospital, Una. Dasondha Ram was declared brought dead on reaching the hospital.

Consequently, the claimants filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of negligent driving of offending vehicles by respondent Nos.3 and 5. The deceased was 63 years of age at the time of accident. This finding was rightly given on the basis of FIR, and others evidence led by the claimants. Income of the deceased assumed by the Tribunal as Rs.3,000/- per month. Resultantly, Tribunal awarded total compensation of Rs.2,45,000/- along with interest @ 9% per annum from the date of filing of the petition till its realization.

Feeling aggrieved with the impugned award, the appellant-Insurance Company have preferred the present appeal on the ground that recovery rights has not been granted.

Learned Counsel for the insurance company stated that recovery rights had not been given to the insurance company, despite the fact that findings of contributory negligence has been given on issue No.1. This findings are not disputing by the Counsel for the State.

A persual of the award shows that oral as well as documentary evidence sufficient to prove that both the vehicles which driven by respondent Nos.3 and 5 are responsible for the accident. Learned Counsel for the State argued that there was only the truck driver who was negligent,

has been discarded.

Keeping in view the above findings the awarded amount of Rs.2,45,000/- is to be paid jointly by the insurance company and State of Punjab who is owner of the offending bus.

Accordingly, award dated 1.05.2014 is being modified that all the said amount first will pay by insurance company alongwith interest till its realization and subsequently, they will have recovery rights to claim 50% from the State of Punjab.

Resultantly, the present appeal is being allowed.

19.04.2018
Riya Grover

(RITU BAHRI)
JUDGE

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