

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

-.-

FAO 4881 of 2017 (O&M)
Date of decision: 15.03.2018

UP State Road Transport Corporation

..... Appellant

Versus

Som Pal and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. S K Verma, Advocate
for the appellant

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Rekha Mittal, J. (Oral)

CM 14797 CII of 2017

Prayer in this application is for condonation of delay of 02 days
in filing the appeal.

In view of averments made in the application supported by an
affidavit, the application is allowed and delay of 02 days in filing the appeal
stands condoned.

Main case

The present appeal directs challenge against award dated
03.03.2017 passed by the Motor Accidents Claims Tribunal, Yamuna Nagar
at Jagadhri (hereinafter to be referred as 'the Tribunal') whereby
compensation has been allowed on account of death of Hem Lata in a motor
vehicular accident that took place on 10.06.2014.

The sole submission made by counsel is that testimony of
Sohan Singh (PW1) examined to discharge onus of issue No. 1 is not

sufficient to establish that occurrence took place due to rashness or/and negligence on the part of Ranjeet Singh, pro forma respondent No.7. It is further argued that as a matter of fact, Sohan Singh was not present at the spot and he has been introduced later to support cause of claimants seeking compensation. Further argued that driver of the offending vehicle has been acquitted in the criminal trial as Sohan Singh failed to establish his identity as well as rashness and negligence on his part. Counsel has also pointed out certain facts elicited in cross examination of Sohan Singh whereby he has deposed that he came to know about name of driver of the offending vehicle after one month of the accident and could not depose about name of the person who disclosed about name of the driver.

I have heard counsel for the appellant, perused the paper book and the records particularly testimonies of Sohan Singh (PW1) and Ranjit Singh (RW1).

Sohan Singh tendered into evidence his duly sworn affidavit by way of examination-in-chief and reiterated the version put forth by claimants that the accident took place due to rash and negligent driving of Bus bearing No. UP-11-T-1609 by its driver. He has emphatically stated in his cross examination that he himself has noted registration of the offending vehicle which was of UP roadways. Though Ranjeet Singh in his testimony would depose that he was not driver of the offending Bus in question on 10.06.2014 but he has admitted that he used to ply Bus belonging to U.P State Road Transport Corporation on Saharanpur-Ambala route. He has further admitted that while driving Bus on Saharanpur-Ambala road, he used to stop bus at Kalanour bridge of canal at Yamuna Nagar, railway crossing at Hamida bypass (Vishavkarama Chowk) Yamuna Nagar.

Indisputably, FIR was registered with the Police in regard to the occurrence in question and after due investigation, Ranjeet Singh was put to trial on the basis of charge sheet (Ex.P3) filed in the Court. There is nothing on record suggestive of the fact that the appellant - Corporation or Ranjeet Singh ever raised any protest against criminal proceedings against Ranjeet Singh for causing the accident. As per the settled position in law, proceedings before the Tribunal are summary in nature and require to be decided on the basis of balance of probabilities. Ranjeet Singh had every reason to deny him to be driver of the offending vehicle on the date of occurrence in order to have escape of his civil and criminal liability. Under the circumstances, testimony of Ranjeet Singh is not sufficient to rebut deposition of Sohan Singh with regard to the accident having been caused due to rash and negligent driving of the offending vehicle. This apart, as the vehicle belonged to the U.P. State Corporation, it was within the knowledge of the appellant as to who was deputed as driver for driving the Bus in question on the fateful day. The appellant has failed to adduce any evidence that on 10.06.2014 an other person was deputed to drive the Bus in question in place of Ranjeet Singh, respondent No. 7.

Taking a cumulative view of the facts and circumstances on record, the mere fact that driver has been acquitted by the criminal Court is not at all a ground to set aside findings of the Tribunal on issue No. 1. In this view of the matter, I do not find an error much less illegality in findings of the Tribunal upholding plea of the claimants that the occurrence took place due to rashness and negligence in driving of Bus No. UP-11T-1609 by its driver. Accordingly, findings of the Tribunal on issue No. 1 are affirmed.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

15.03.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No

Court Room No. 21

Court Officer (Mtc.) to please arrange to change defective Heat Pillar, provided in the Chamber for the use of Hon'ble Mrs. Justice Rekha Mittal, with a new one.

Immediate please.

By Order

Special Secretary
to Hon'ble Mrs. Justice Rekha Mittal
15.03.2018.

C.O (Mtc.)