

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

FAO No.3666 of 2002 (O&M)

Date of decision: 22.10.2019

Harash Mani Chamoli

....Appellant

Versus

Smt. Nirmala Rani and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. M.S. Sidhu, Advocate,
for the appellant.

Mr. Ashit Malik, Advocate,
for respondent Nos.1 to 4.

RITU BAHRI J. (Oral)

Harash Mani Chamoli-appellant (actual user of offending vehicle) has come up in appeal against the award dated 10.04.2002 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.2,50,000/- has been awarded in favour of the claimants-respondent Nos.1 to 5 on account of death of Nathu Ram in a motor vehicular accident which took place on 26.02.1998.

The appellant is challenging the finding given by the Tribunal, whereby respondent Nos.1 to 4 have been jointly and severally held liable to make payment of compensation to the claimants.

The Tribunal has observed that the Jeep in question was owned by State of Uttar Pradesh and District Revenue Officer, Uttar Kashi (UP) (respondent Nos.2 & 3 in claim petition) and Harash Mani Chamoli (present

appellant) was the user of the said jeep. All the respondents (in claim petition) were jointly and severally held liable to make payment of compensation.

In order to prove the accident, claimants examined Vimal Parshad (PW-2), who was eye witness of the accident dated 26.02.1999. This witness had deposed that on 26.02.1999, he was driving the Tata Sumo and was coming from Kafnol to Dehradun. When he reached at a distance of 3 K.M. towards Berniguard near Kafnol, a Jeep bearing No. UP-09-0546 came from the side of Kafnol, which was being driven in rash and negligent manner and after going a little ahead of his vehicle, the driver of the jeep took a turn at high speed, due to this, he lost control over the vehicle and fell into the khad. He further stated that the said route was mountainous area, where the vehicles are being driven at a very slow speed. After the accident, he stopped his vehicle and came to the spot, where 6-7 persons were found present in injured condition. He helped in bringing them to the hospital. One of the occupants of the jeep was the Tehsildar. One of the injured was Nathu Ram, who was owner of the bus and sustained injuries in the accident. As per this witness, the accident had taken place on account of negligent driving of the jeep by its driver. The claimants have also proved on record copy of FIR Ex.P5, according to which, a case under Sections 279/337/304-A IPC was registered on 26.02.1999 at Police Station, Purola (UP) against the driver of the offending jeep.

On the basis of the evidence led by the parties, Tribunal has observed that since driver-Basant Singh-respondent No.6 (respondent No.1 in claim petition) was a Govt. employee and was travelling in the offending jeep, he might not have been challaned inadvertently. Ultimately, it was

held that the accident had taken place by the use of vehicle No.UP-09-0546, which was being driven by respondent No.1 (in claim petition) and he might be driving the same at a high speed. When he took sharp turn on the road, then due to his negligence, the jeep fell in the *khad*.

After going through the impugned award, this finding given by the Tribunal does not require any interference. However, keeping in view the fact that present appellant Harash Mani Chamoli was not a driver of the offending jeep/vehicle and was only the actual user of the same, the impugned award, to the same extent, is liable to be modified.

Resultantly, the impugned award is modified to the extent that the liability to pay the amount of compensation shall be of respondent Basant Singh, State of Uttar Pradesh and the District Revenue Officer, Uttar Kashi (respondent Nos.1 to 3 in the claim petition) jointly and severally. Present appellant-Harsh Mani Chamoli is not held liable to pay compensation to the claimants.

Allowed in the aforesaid terms.

(RITU BAHRI)
JUDGE

22.10.2019
ajp

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