

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

F.A.O. No. 2780 of 1996(O&M)

Date of Decision: 01.02.2019

National Insurance Company Limited and another

.....Appellants.

Versus

Smt. Uma Taneja and others

..... Respondents

AND

F.A.O. No. 2781 of 1996 (O&M)

National Insurance Company Limited and another

.....Appellants.

Versus

Smt. Surinder Kaur Lamba and others

..... Respondents

AND

F.A.O. No. 2956 of 1996 (O&M)

State of Haryana and another

.....Appellants.

Versus

Smt. Uma Taneja and others

..... Respondents

AND

F.A.O. No. 2957 of 1996 (O&M)

State of Haryana and another

.....Appellants.

Versus

Smt. Surinder Kaur Lamba and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Neeraj Khanna, Advocate
for the appellants (in FAO No. 2780-81 of 1996)

Ms. Gaganpreet Kaur, AAG., Haryana
for the appellants (in FAO No. 2956-57 of 1996).

Mr. Jagdish Manchanda, Advocate
for respondents no.1 to 5.

LISA GILL, J (Oral).

This order shall dispose of FAO No.2780 of 1996, FAO No. 2781 of 1996, FAO No. 2956 of 1996 and FAO No. 2957 of 1996 as all the appeals arise from a common award dated 25.05.1996, passed by the learned Motor Accident Claims Tribunal, Rohtak (for short 'Tribunal').

FAO Nos.2780 of 1996 and FAO No. 2781 of 1996 have been filed by the National Insurance Company Limited, challenging award dated 25.05.1996 passed by the learned tribunal, whereby the appellants were held liable to pay 50% of the compensation to the claimant-respondents.

FAO No. 2956 of 1996 and FAO No. 2957 of 1996 have been filed by the State of Haryana and General Manager, Haryana Roadways, Sirsa Depot, Sirsa, also challenging the said award, whereby they were held liable to pay 50% of the compensation to the claimant-respondents. For the sake of convenience, facts are being extracted from FAO No. 2780 of 1996.

As per averments in the three claim petitions under Section 166 of the Motor Vehicles Act (for short 'Act'), Om Parkash Taneja, Manjit Singh and Inderjit Singh, were travelling from Delhi to Rohtak, on 25.11.1994, in Maruti Car bearing registration No. DL-3CC-0396. At about 10.45.p.m., when they reached near Jakhoda Mor crossing on the National Highway No. 10, a Haryana Roadways bus bearing registration no. HR-39-915, belonging to Sirsa Depot, driven by respondent no-1 Devi Lal in a rash and negligent manner and without following the rules, came from the opposite direction. Head light of the bus were dazzling and blinking. There was a curve on the road at the point of the accident. Driver of the bus while

negotiating the curve swerved to his right and struck against the Maruti Car. The car was driven by Inderjit (deceased). Inderjit and Manjit Singh died at the spot due to the injuries received by them in the said accident. Om Parkash Taneja, was taken to civil hospital, Bahadurgarh. Due to critical condition of Om Parkash Taneja, he was shifted to Medical College Hospital, Rohtak, but on the same night, he also succumbed to the injuries received by him in the said accident. Compensation on account of death of Inderjit, Manjit and Om Parkash Taneja, was sought.

Respondent no.1, driver of the bus filed written statement admitting the accident and pleaded that the same was caused due to the rash and negligent driving of the car.

Respondents no. 2 and 3, State of Haryana and General Manager, Haryana Roadways, filed a joint written statement by submitting that accident in question had taken place due to rash and negligent driving of the Maruti Car by its driver. It was further pleaded that the FIR was recorded on the statement of the driver of the bus.

Respondent no. 5, owner of the Maruti Car, resisted the claim of the appellants by submitting that driver of the Maruti car was not at fault. It was further pleaded that the accident had taken place due to the rash and negligent driving of the bus. Similar plea was taken by the insurer-respondent no.6, of the Maruti Car by raising various preliminary objections. Respondents prayed for dismissal of all the petitions.

Following issues were framed by the learned tribunal:-

1. Whether the motor vehicle accident on the night between 24.11.1994 and 25.11.1994 near village Jakhoda turning was caused because of the sole rash and negligent driving of Haryana Roadways bus No. HR-49-915 by its driver

- respondent no.1?OPP
2. Whether the driver of the Maruti Car No. DL-3CC-0396-deceased Inderjeet was solely responsible for causing the said accident by his rash and negligent driving of Maruti Car or whether he contributed in the cause of accident and it so to what extent?OPP
 3. Whether deceased Om Parkash Taneja, Manjit Singh Lamba and Inderjeet received fatal injuries in the said accident?OPP
 4. Whether the petitioners are entitled for compensation, if so to what amount and from whom?OPP
 5. Whether any one of the petition is bad for non-joinder of parties?OPR
 6. Whether the Insurance Company-respondent no.6, is not liable to pay any compensation on account of any one of its preliminary objections taken in its written statement? OPR.
 7. Relief.

Both the parties led evidence in support of their respective claims/stands.

Learned Tribunal on consideration of the evidence on record as well as facts and circumstances of the case concluded that the accident in question was caused due to rash and negligent driving of the offending car as well as the bus. Responsibility of the drivers of both the vehicles was fixed equally in the ratio of 50% each. In the case of death of Inderjeet, it was held that as he was the driver of the Maruti car, he was responsible to the extent of 50% for causing the accident. Therefore, the claimants in the said case i.e. 22 of 06.03.1995 were held entitled to 50% of the compensation to be paid by Haryana Roadways.

Present appeals have been filed by the insurance company (insurer of the car in question) and Haryana Roadways challenging their liability to pay the compensation in the case of death of Om Parkash and Manjit Singh. No appeal has been filed by the State of Haryana in the petition arising out of the death of Inderjeet.

It is pleaded in the grounds of appeal that the component of income-tax has not been deducted, however keeping in view the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009**, wherein increment on account of future prospects etc., have also been afforded, learned counsel for the appellants does not press the challenge as far as quantum of compensation is concerned. It is submitted that reduction, if any, would be offset in any case. It is further noticed at this stage that no appeal has been preferred by the claimants neither any cross-objections have been preferred.

Learned counsel for the Insurance Company argues that it is evident from the record that due to the curve on the road, the offending bus had swerved towards the right side of the road. It is due to this reason that head-on collision with the car took place. Driver of the car could not be held responsible for the accident in any manner. Apportionment of responsibility to the extent of 50% each is not justified. The insurance company should be completely exonerated from its liability to pay the compensation and the Haryana Roadways be held responsible for the entire amount of compensation to be disbursed with.

Per contra, learned counsel for State submits that once it has come on the evidence that there was a curve on the road at the point of the accident, it cannot be said that the driver of the bus was rash and negligent when he moved the offending bus towards the right side. It was a natural and normal thing to do. Therefore, it is the State of Haryana which is required to be absolved of from its liability to pay the compensation.

I have heard learned counsel for the parties and have gone

through the file with their able assistance.

It is a matter of record that there was indeed a head-on collision between the Maruti Car and the Haryana Roadways bus on the intervening night of 24/25.11.1994. The Maruti car had in-fact slid under the offending bus and had been crushed thereunder. It had to be pulled out from underneath the bus with the help of a tractor trolley. It has come in the evidence of PW-4-Harish Chander, the eye witness of the occurrence, that the Haryana Roadways bus had come towards the right side of the road from the central line of the road. This aspect is fully explained by the evidence on record to the extent that there was admittedly a curve/bend in the road at the spot of the accident, therefore, the bus moved towards the right side. It has been correctly observed by the learned tribunal that the manner and nature of the accident reveals that driving of both the vehicles by their respective drivers was rash and negligent. None of the two drivers could control their vehicles as would be expected at such a place. Therefore, finding of the learned tribunal in this respect where responsibility for causing of the accident has been fixed equally upon drivers of both the vehicles, to the extent of 50% each, is correct and is accordingly upheld.

At this stage, it is reiterated that State of Haryana has accepted its liability in case of compensation afforded to the legal representatives of Inderjeet inasmuch as no appeal has been preferred by the State of Haryana in the said matter.

No other argument has been raised.

Learned counsel for the appellants are unable to point out any illegality, infirmity or perversity in the impugned award dated 25.05.1996,

passed by the learned tribunal, Rohtak, which calls for interference by this Court at the instance of the appellants.

All the four appeals are accordingly dismissed with no order as to costs.

01.02.2019		[LISA GILL]
s.khan		Judge
Whether speaking/reasoned	:	Yes/No.
Whether reportable	:	Yes/No.