

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

FAO-2867-2020 (O&M)
Date of Decision:- 17.9.2020

National Insurance Company Ltd. ... Petitioner

Versus

Najma and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Amit Jaiswal, Advocate, for the appellant.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The National Insurance Company Ltd. (insurer) assails award dated 6.2.2020 passed by Motor Accident Claims Tribunal, Gurugram, vide which a claim petition filed by respondents No.1 to 6 seeking compensation on account of death of Tahir has been accepted and a compensation to the tune of ₹25,64,800/- has been awarded.
2. Learned counsel for the appellant has submitted that it is a case where the truck being driven by deceased bearing registration No.HR-55AA-0234 had rammed into another truck i.e. truck bearing registration No.MP-37-GA-0725 which was going ahead of the truck

driven by deceased and as such the negligence has to be attributed to deceased himself. The learned counsel for the appellant has further submitted that even if the averments as made by the claimants are taken to be correct, still at best it would be a case of contributory negligence and that the Tribunal fell in error in not holding it to be a case of contributory negligence.

3. I have considered aforesaid submission addressed before this Court. It is the case of the claimants that the offending truck which was proceeding ahead suddenly applied brakes and as a result of which the truck being driven by the deceased rammed into the offending truck resulting in death of the deceased. No doubt it is expected of every driver driving on a highway to maintain a safe distance from other vehicles which are being driven ahead of their vehicles so as to ensure that in case of any emergency, the vehicle in question can be brought to a halt within a safe distance. In the present case the truck being driven by the deceased was behind the offending truck. It is, however, not disputed that the accident in question had taken place in dead of the night i.e. at 12 midnight and it is a case where the offending truck had been overloaded and the wooden folders which were loaded in the truck were extending beyond the permissible length and height of the truck making its lights invisible. In these circumstances it could well be expected that in the dead of the night where even the tail lights of the vehicle going in front of vehicle of deceased were not visible, when the truck proceeding ahead applied brakes suddenly, then the vehicle following it could well ram into

such vehicle which had applied brakes all of a sudden especially if such an accident takes place in pitch of dark as in the present case. PW-2 Mohd. Altaf Khan who is an eye witness has specifically stated to this effect. His testimony could not be shattered on any of the material aspects as regards the manner of accident. In these exceptional circumstances, when the accident happened in pitch of dark and the tail lights vehicle going in front were not visible on account of overloading of articles which were protruding beyond the permissible length of vehicle, no fault can be attributed to the driver of the truck which was coming behind and which rammed into the truck moving in front when the said truck suddenly applied brakes. Consequently, this Court does not find any infirmity in the findings as recorded by the Tribunal as regards the negligence of the offending vehicle. This Court even does not find any infirmity in the quantum of compensation as assessed by the Tribunal.

4. The appeal is sans any merit and is hereby dismissed.

September 17, 2020

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No