

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

Sr. No. 108

FAO-574 of 2021 (O&M)

Date of Decision : October 11 , 2021

U.P. State Road Transport Corporation

...Appellant

Versus

Shabnam and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

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

SUDHIR MITTAL, J. (ORAL)

CM-5490-CII-2021

This application has been filed under Section 5 of the Limitation Act for condoning the delay of 414 days in filing the appeal.

For the reasons stated therein, the same is allowed and delay of 414 days in filing the appeal is condoned.

FAO-574-2021 (O&M)

An accident took place on 07.02.2015 in which Abdul Kayum died. According to the case of the claimants, said Abdul Kayum was riding a motorcycle with cousin Farman seated on the pillion. In between the motorcycle was stopped on the side as Farman had to answer the call of nature. While Abdul Kayum was waiting for his cousin, a bus owned by the appellant bearing UP11-AT-0573 came and hit the parked motorcycle resulting in the death of Abdul Kayum. The bus was being driven rashly and negligently and thus, the claim petition was filed, which has been allowed. Finding of rash and negligent driving against the driver of the offending bus has been returned and compensation of Rs.15,82,000/- has been assessed.

FAO-574 of 2021 (O&M)

Learned counsel for the appellant has submitted that the accident never took place with the bus concerned. It was specifically stated so in the reply. The claimants could not lead any cogent evidence to show that the accident in fact took place with the bus of the appellant. The eye-witness was a relative of the deceased and in his cross-examination, he could not tell the name of the driver nor could he identify him. The number of the bus was also not disclosed by him. Thus, the Tribunal was in error in holding that the accident took place with the bus owned by the appellant.

In this case, FIR was registered on 08.02.2015 against the driver of the offending vehicle. The number of the bus was also mentioned therein. PW-2 Farman, eye-witness, while being cross-examined, has stated that the driver ran away from the spot along with the bus. Accordingly, there was no possibility of him recognizing the driver of the vehicle. Under the circumstances, the Tribunal was justified in holding that the accident took place with the offending vehicle. The appellant being the owner, could have produced evidence of the offending vehicle being at a different place at the time of the accident had it in fact been so. Even an attempt in this direction was not made.

In view of the above, the appeal has no merit and is dismissed.

CM-5492-CII-2021

Since the main case stands dismissed, the present application is also dismissed.

October 11, 2021

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No