

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-882-2021 (O&M)

Date of decision: 25.11.2021

HIMACHAL ROAD TRANSPORT CORPORATION AND ANR

...Appellants

V/S

KANTA DEVI AND ORS

...Respondents

FAO-883-2021 (O&M)

HIMACHAL ROAD TRANSPORT CORPORATION AND ANR

...Appellants

V/S

PUSHPA DEVI AND ORS

...Respondents

FAO-885-2021 (O&M)

HIMACHAL ROAD TRANSPORT CORPORATION AND ANR

...Appellants

V/S

ANIL SHARMA AND ANR

...Respondents

FAO-893-2021 (O&M)

HIMACHAL ROAD TRANSPORT CORPORATION AND ANR

....Appellants

V/S

RAMESH SINGH AND ORS

...Respondents

FAO-894-2021 (O&M)

HIMACHAL ROAD TRANSPORT CORPORATION AND ANR

...Appellants

V/S

SANDHYA DEVI AND ORS

...Respondents

FAO-908-2021 (O&M)

HIMACHAL ROAD TRANSPORT CORPORATION AND ANR

...Appellants

V/S

SUNITA DEVI AND ORS

...Respondents

FAO-909-2021 (O&M)

HIMACHAL ROAD TRANSPORT CORPORATION AND ANR

...Appellants

V/S

SANDHYA DEVI AND ORS

...Respondents

FAO-912-2021 (O&M)

HIMACHAL ROAD TRANSPORT CORPORATION AND ANR

...Appellants

V/S

ARUN KUMAR AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ravinder Arora, Advocate and
Mr. Neeraj Khanna, Advocate,
for the appellants.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

Vide this common order, I intend to dispose of the
aforementioned appeals, as common questions of law and facts are involved
therein. For brevity, facts are being taken from FAO No.882 of 2021.

2. Aggrieved with the award dated 05.04.2021 rendered by Motor
Accidents Claims Tribunal, Hoshiarpur (for brevity, Tribunal), Himachal
Road Transport Corporation has preferred the instant appeal. Appellant is
owner of the offending bus i.e. Himachal Road Transport Corporation.

3. Brief facts as per the claim petition are that on the fateful day of
19/20.09.2017, Anil Sharma along with Satish Kumar, Babu Ram, Balwinder
Singh, Ramesh son of Gopal, Meenisha, Ramesh son of Joginder, Sandhaya,
Monika, Shubham, Pushpa Devi, Arun Kumar and Neha were going to pay
obeisance at Kartarpur in Maruti Suzuki Van No. JK-14-B-0385. After
paying obeisance at night time, they were coming back from Kartarpur to
Jammu, by van, which was being driven by Anil Sharma. At about 8.15

a.m., when they reached near village Jhinger Khurd after crossing bus stand Khudda, bus bearing registration No.HP-38-E-2692 of Pathankot depot was parked on Jalandhar-Pathankot GT Road on the western side of road and their van struck against the bus, as a result Anil Sharma driver received multiple injuries and his left leg was fractured. The persons sitting in the said van also suffered multiple injuries. Ramesh son of Gopal Singh, Meenisha and Shabnam suffered serious injuries and they were taken to Civil Hospital, Dasuya, where they expired during treatment.

4. Having heard arguments of learned counsel for the appellants, I find no ground to interfere, particularly, in view of the correct findings of the Tribunal contained in para 14 of the award under challenge. The relevant extract is reproduced herein below:

“14

XXX

XXX

I have carefully seen the site plan Ex R3, the photograph of the place of accident Ex. R1 along with the statements of the aforesaid witnesses. In the photograph it is clear that the bus was parked on the extreme left side of the road adjoining to the fields. Some portion of the bus was towards the right side of the white line. The Maruti Van No.JK-14-B-0385 hit behind the bus towards the right side. It is not the case that the bus was stopped for picking up passengers. It is evident that the bus is parked on extreme left side of the road adjoining the fields and obviously it was stopped there due to some mechanical defect. The accident took place during day time. The road is straight and Anil Sharma CW1 conceded that the bus parked on the left side of the road was visible from quite some distance. Therefore, it is evident that Anil Sharma CW1 was driving the overcrowded Maruti Van travelling with ten passengers. He was driving since evening of 19.09.2017 and on 20.09.2017 they were returning back from Kartarpur. Throughout this long journey he was driving all alone and possibility of fatigue due to this journey cannot be ruled out. Obviously, he drove at a high speed, in a rash and negligent manner and could not control his vehicle and struck behind the stationary bus parked on the extreme left side of the road. Therefore, there is more negligence on the part of Anil Sharma respondent No.4. At the same time there was some negligence on the part of respondent No.1 driver of the bus who did not put any indicator that the bus was parked there due to some mechanical defect. In case the bus was not parked on the road

in that manner, the Maruti Van No.JK-14-B-0385 would have gone ahead and it would not have resulted into the death of three persons and injuring other passengers. Therefore, in my opinion, it is a case of contributory negligence. Considering all the facts and circumstances of the case, the negligence of Anil Sharma respondent No.4 and Jarnail Singh respondent No.1 is assessed to the ratio of 60:40. Issue No.1, 5 and 5-A are accordingly decided against the respondents and in favour of the claimants.”

5. Apart from the aforesaid valid reasoning given by the learned Tribunal to reject the argument of non-contribution to the negligence, which caused the accident, I am of the view that no steps, at all, whatsoever were taken by the officials of the erring Transport Corporation to either divert the traffic coming from the rear side by deputing someone so as to give any indication to the drivers of the vehicles coming from the rear side that a heavy vehicle was stationary there. Neither there is anything on record to show that any hazard lights were put on the blinker mode or even otherwise hazard sign was placed behind the vehicle to indicate that the vehicle was stationary.

6. In the premise, the findings rendered by the Tribunal below that the Corporation is liable for contributory negligence cannot be interfered with.

7. Dismissed.

8. Pending applications, if any, shall also stand disposed of.

9. Photocopy of this order be placed on the connected case files.

25.11.2021

vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No