

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

**FAO-2807-2021 (O&M)
Date of Decision:01.11.2021**

**Regional Manager, Pepsu Road Transport Corporation
and another**

....Appellants

VS

Sandeep Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Harsh Chopra, Advocate
for the appellants

SUDHIR MITTAL, J. (Oral)

The owner is in first appeal against award dated 30.07.2021 passed by the Motor Accident Claims Tribunal, Patiala, whereby the claimants have been awarded compensation of Rs.12,26,500/- in equal share on account of death of their mother Smt. Indrawati Devi.

Accident took place on 24.11.2016 when Smt. Indrawati Devi was alighting from a bus belonging to the appellant at Haridwar Depot. The bus moved when she was alighting resulting in her right leg being amputated from the thigh. However, she could not survive the accident and passed away.

Learned counsel for the appellants submits that perusal of the award shows that the Tribunal has accepted the fact that Smt. Indrawati Devi was alighting from the bus when it was in motion. Thus, a finding of contributory negligence should have been returned. Same having not been done, the award deserves to be modified. Reliance has been placed upon judgment of this Court in ***'State of Haryana and another vs. Dilbag Singh and others, 2016(4) Law Herald 3493'***.

A perusal of the award shows that other passengers had already alighted from the bus when it stopped at the gate of the bus-stand. The

deceased was also in the process of getting down when the bus moved resulting in the accident. Since, passengers were alighting when the bus was stationary, it was the duty of the driver to ensure that the bus was not moved before all the passengers who were wanting to alight at that point had disembarked. Thus, there was negligence on his part for which the owner has to be made liable. The contributory negligence does not arise under the circumstances. The judgment of Dilbag Singh (supra) is distinguishable. In the said case, the passenger had alighted from the bus when it was still in motion. This fact makes all the difference.

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

(SUDHIR MITTAL)
JUDGE

01.11.2021
Poonam Negi

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No