



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

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FAO-3182-2006 (O&M)

Date of Decision: January 30, 2025

**Pepsu Road Transport Corporation, Patiala
and another**

.....Appellant(s)**Vs.****Suman Lata and others****.....Respondent(s)****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Aman Sharma, Advocate and
Mr. Chirag Suri, Advocate
for the appellant(s).

Mr. Arun Bansal, Advocate
for respondent No.3 (Through VC).

SUDEEPTI SHARMA J. (ORAL)

The present appeal has been filed by the appellants against the Award dated 01.04.2006 passed in the claim petition under Section 166 of the Motor Accident Claims Tribunal, Hoshiarpur (for short, 'the Tribunal'), wherein the appellants were fastened with the liability to pay the compensation to the claimants to the tune of Rs.7,27,000/-along with interest @ 6 % per annum.

BRIEF FACTS OF THE CASE

2. The brief facts of the case as mentioned in the claim petition are that on 12.09.2004 at about 8:30 a.m., Rakesh Kumar (since deceased) alongwith his brother-in-law Pardip Kumar son of Harbans Lal resident of Khuda, District Hoshiarpur came to Jaja Chowk Tanda for the purpose of boarding the bus. A bus bearing registration No. PB-11-U-6750 of Barnala Depot came from Dasuya side and stopped at Jaja Chowk for alighting the



passengers. When Rakesh Kumar was in process to board the bus from front door of the bus and for the said purpose, he put his hands to the handle of the front door of the bus but the driver suddenly accelerated the bus at high speed in a rash and negligent manner. As a result of which, Rakesh Kumar fell down on the road and was run over under the rear left side tyre of the bus and sustained injuries and died at the spot. The driver of the bus did not care when hue and cry was raised by Rakesh Kumar and others. The accident took place solely due to rash and negligent driving of the aforesaid bus by respondent No. 1. In this regard FIR No. 227 dated 12.9.2004 under Section 279/304 IPC was got registered against the respondent No. 1.

3. Upon notice of the claim petition, appellants appeared and filed written reply denying the factum of compensation/accident.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

1. Whether Rakesh Kumar son of Girdhari Lal died in motor vehicular accident on 12.9.2004 at about 8:30 AM in the area of G.T. Road Jaja Chowk PS Tanda due to rash and negligent driving of bus No. PB-11-U-6750 by respondent No. 1? OPA

2. If issue No. 1 is proved to what amount of compensation the claimants are entitled to and from whom? OPA

3. Relief.

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the liability to pay compensation was fastened upon the appellants.

**SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES**

6. Learned counsel for the appellants contends that the Ld. Tribunal has wrongly held that the accident in question took place due to rash and negligent driving of the offending bus No.PB-11-U-6750 driven by its driver-Avtar Singh. He further contends that the Ld. Tribunal has wrongly fixed the liability of the appellants to pay the compensation.

7. I have heard learned counsel for the appellants and perused the whole record of the case.

8. The relevant portion of the award is reproduced as under:-

“Issue No. 1

11. The onus to prove this issue lies upon the claimant and in order to discharge the same, claimants have examined Pardip Kumar AW-2 who has furnished his sworn affidavit Ex.AW2/A the contents of which are to be read in evidence as part of his examination in chief. He has categorically deposed that he had gone to chowk Jaja alongwith Rakesh Kumar deceased. When Rakesh Kumar was in the process of boarding the bus, it was accelerated and was not stopped by the respondent no. 1 despite hue and cry was raised, as a result of which Rakesh Kumar was run over under the left side rear tyre of the bus bearing registration No. PB-11-U-6750 depot Barnala. AW-2 Pardip Kumar also lodged the FIR copy of which is Ex.C-1 with the Police Station, Tanda immediately after the accident in which he has clearly attributed the rashness and negligence on the part of the driver of the bus i.e. respondent no. 1.

12.The contents of the learned counsel for the respondent Sh. RK Memon Adv. is that rashness and negligence has been falsely attributed to Avtar Singh respondent No. 1. In



fact the accident took place due to rashness and negligence on the part of th deceased Rakesh Kumar as he had tried to board running bus from the front door. The respondent no. 1 Avtar Singh has also appeared in the witness box and has unfolded the manner in which the accident occurred. Even otherwise, except the bald statement of Pardip Kumar AW2, there is no other witness, rather Avtar Singh respondent No. 1 has examined Vinod Kumar shopkeeper resident of Village Gardhdiwala as RW-2 who was also traveling in the bus on the date and time of accident i.e. 12.9.2004. he was also examined as a witness during the inquiry conducted by the DSP (Dasuya) in respect of the instant accident. He is not related in any way with the present respondent Avtar Singh, rather, he is independent witness. So, in such circumstances no liability can be fastened upon the respondent no. 1 to the effect that he was rash and negligent in driving the bus in question.

13. Admittedly, in addition to the statement of Avtar Singh, Vinod Kumar has also been examined by him though one thing is evident from the statement of Vinod Kumar that he was associated in the inquiry conducted by the DSP yet the respondent No. 1 was not found innocent Had it been so, the inquiry report would have been placed on record. Father, after due formalities and competition of investigation challan was presented in the FIR no. 227 date 12.9.2004 under Section 279, 304 of IPC against the respondent no. 1 Avtar Singh. It has also been admitted by Avtar Singh RW-1 when he was subjected to cross examination that he was arrested by the police in the aforesaid case and was subsequently pending before on bail and further that said case is still pending before the learned Illaqa Magistrate, Dasuya. Even it has also emerged from the statement of RW-2 Avtar Singh that since the bus was to be stopped at bus



stand Tanda and as such, it was at low speed and the passengers traveling in the bus raised hue and cry that a person has been run over under the tyres of the bus who had tried to board the running bus from the front door. Had the bus was being stopped or it was at low speed as it was to be stopped at the bus stand Tanda, the accident would not have occurred in the manner as has been unfolded by Avtar Singh. The statement of Avtar Singh can be said to be self serving just to avoid liability of causing the accident. The more fact that Vinod Kumar has also been examined by him before the DSP Dasuya during the inquiry does not ipso facto mean that whatever has been stated by him in the court while appearing as RW-2 is gospel truth. Since the respondent no. 1 has already been charged to face trial for causing accident due to his rash and negligent driving in which Rakesh Kumar breathed his last due to the injuries sustained by him. So, it can be said that the respondent Avtar Singh has failed to explain the circumstances that there was no lapse or rashness and negligence on his part rather the claimants have proved on record that the accident occurred due to rash and negligent driving of bus No. PB-11-U-6750 by respondent no. 1 Avtar Singh which resulted into causing death of Rakesh Kumar. This issue is accordingly decided in favour of the claimants.”

9. A perusal of the award indicates that the learned Tribunal has correctly concluded that the accident in question was solely attributable to the rash and negligent driving of Avtar Singh, the driver of the offending bus. The evidence on record, particularly the testimony of Pardip Kumar (AW-2), who was an eyewitness to the incident, unequivocally attributes negligence to the driver. Furthermore, the prompt registration of FIR No. 227 dated 12.09.2004 under Sections 279 and 304-A of the IPC corroborates the claim of rash and



negligent driving. The award also reflects that charges were already framed against the respondent (driver), reinforcing the finding of his culpability. It is a well-settled principle of law that once the driver of the offending vehicle has been charged for the accident, it serves as *prima facie* evidence of his negligence.

10. In light of these circumstances, the Tribunal’s findings are legally sound, well-reasoned, and in consonance with settled legal principles. There is no error or perversity in the reasoning adopted by the Tribunal that would justify interference by this Court. Consequently, the findings of the Tribunal warrant affirmation.

11. In view of the above, I do not find any infirmity in the award dated 01.04.2006 passed by the Ld. Tribunal, Hoshiarpur and the present appeal being devoid of any merits, is hereby ***dismissed***.

12. All the pending applications also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

January 30, 2025
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Whether speaking/reasoned:	Speaking
Whether reportable	Yes / No