



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

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FAO-5848-2024 (O&M)

Date of Decision : 22.05.2025

UTTAR PRADESH STATE ROADWAYS
TRANSPORT CORPORATION, GHAZIABAD

.... Appellant

VERSUS

SADHANA AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sandeep Kotla, Advocate for the appellant.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the appellant-owner of the offending bus challenging the award dated 13.09.2024 passed by the learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal').

2. The parties are being hereinafter referred to as the claimants, the driver, the owner for the sake of clarity.

3. Brief facts relevant to the present *lis* are that the claimant-respondents No.1 to 5 herein filed a claim petition being MACP-246-2022 titled as 'Smt. Sadhana & Ors. V/s Salim Khan & Ors.' for grant of compensation on account of death of Krishanvir Singh son of Jugendra Singh who died in a motor vehicular accident which took place on 04/05.03.2022 on account of rash and negligent driving of bus bearing registration number UP-14-FT-6051 (hereinafter referred to as 'the offending vehicle') by respondent No.6 herein (respondent No.1 in the claim

petition). It was averred in the claim petition that on the intervening night of 04/05.03.2022 at about 00.30 hours, the offending bus was going with a Company of CISF persons and the Head of the Troop of 37 CISF persons was ASI/SL Nayak. The offending bus was in the area of Markhundi Ghati and due to negligence of the driver, the bus fell into a 100 feet deep gorge and in that accident Krishanvir died while HM Baig CISF Unit and Balkrishan T received serious injuries and six other CISF personnels got minor injuries, who were taken to Robertsganj Hospital and were discharged on 06.03.2022. The two firearms of the officials were also damaged including rifle of Krishanvir Singh. On the statement of Inspector G.C. Krishanappa, FIR No.196 of 2022 was registered in Police Station Robertsganj, Sonbhadra (U.P.) under Sections 279, 337, 338 and 304-A IPC against the driver. Autopsy was conducted on 05.03.2022. It is averred that the respondents in the claim petition were jointly and severally liable to pay the compensation to the claimants, who are widow, minor children and parents of the deceased.

4. The driver of the offending bus though appeared at the first instance but later did not appear and was proceeded against *ex parte* vide order dated 16.01.2023. No written statement was filed on his behalf. The owner of the offending bus (the appellant herein) appeared through its authorized person and filed its written statement raising various preliminarily objections regarding maintainability, cause of action, *locus standi*, mis-joinder and non-joinder of necessary parties. On merits, though

the accident was admitted however the negligence on the part of the driver was denied.

5. From the pleadings of the parties the following issues were framed :

1. Whether accident in question took place during night of 04/05.03.2022 on account of rash and negligent driving by respondent No.1, while driving offending vehicle bearing registration No.UP-14FT-6051 resulting in death of Krishanvir Singh ? OPP
2. Whether petitioners are entitled to get compensation. If so, how much and from whom ? OPP
3. Whether petition is not maintainable ? OPR2
4. Whether petitioners have no cause of action and *locus standi* to file present petition ? OPR2
5. Whether petition is bad for non-joinder and mis-joinder of necessary parties ? OPR2
6. Relief.

6. The Tribunal vide the impugned award dated granted a compensation to the tune of ₹76,82,000 to the claimants. Aggrieved by the same the present appeal has been preferred by the owner of the offending vehicle.

7. Learned counsel for the appellant would contend that the claimants had got an amount of ₹20,00,000 (rupees twenty lakh) as compensation from the Government and hence the said amount ought to

have been deducted. It is further the contention of the learned counsel that there was no negligence on the part of the driver as the brakes failed at the turning leading to the accident and the bus falling in the gorge and that it was an act of God.

8. Heard.

9. In the present case the argument of the learned counsel for the appellant that there was no act of negligence on the part of the driver deserves to be rejected. The driver of the bus, who would have been the best person to depose regarding the negligence as alleged, did not file his written statement nor stepped into the witness box. The Tribunal found the statement of RW-2 (Anil Kumar, Booking Clerk in UPSRTC) not to be cogent and convincing. The Tribunal also found that as per the version of the appellant itself, the driver had failed to control the offending bus on account of failure of the brakes, which would again indicate that the bus was not being properly maintained. Brake failure would occur due to non-maintenance of the bus and the same cannot be termed as an act of God. In view of the above, this argument of the learned counsel for the appellant stands rejected.

10. The second argument of the learned counsel for the appellant that an amount of ₹20,00,000 (rupees twenty lakh) was given to the claimants by the Government and hence the same has to be deducted is also without any basis. The said amount was paid by the CISF Department. Learned counsel for the appellant is not able to point out to any case law in support of his arguments that the said amount needs to be deducted.

Accordingly, this argument of the learned counsel for the appellant is also rejected.

11. In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

22.05.2025

Aman Jain

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No