

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

F.A.O. No. 5227 of 2009 (O&M)

Date of Decision: Sept 23rd, 2011.

Satnarayan

.... Appellant

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIJENDER SINGH MALIK

Present: Mr. Ashwani Arora, Advocate
for the appellant.

Mr. Kunal Garg, Assistant Advocate General Haryana,
for the respondents.

VIJENDER SINGH MALIK, J.

This is an appeal brought by the claimant against the award dated 5.6.2009 passed by Motor Accidents Claims Tribunal, Chandigarh (for short, "the Tribunal"), whereby a sum of Rs.2,50,000/- has though been awarded as compensation to the claimant with interest at the rate of 7.5% per annum, yet, respondents Nos. 1 to 3 have been burdened with the responsibility of depositing 50% of the said amount. The facts necessary for decision of this appeal are as under:

On 30.1.2006, at about 9.30 PM, the claimant was going from Chandigarh to Ambala driving his motor cycle at a slow speed. He was moving his motor cycle on the left side of the road. He was in front of Khanna Palace near village Kakru, when an

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unknown truck came from his back side and had made a contact with his motor cycle. On account of the same, the motor cycle went out of control of the claimant. In the meanwhile, a bus bearing registration No. HR-38H-7427 came from the opposite direction at a very high speed. It came on the wrong side of the road and had hit the motor cycle of the claimant, on account of which, he fell down and suffered serious injuries.

After notice, respondents appeared and resisted the claim and after framing issues and taking evidence, learned Tribunal passed the award dated 5.6.2009.

The accident is found by learned Tribunal to be an outcome of contributory negligence of the driver of unknown truck and the bus of Haryana Roadways and for this reason, order of sharing of the responsibility to pay compensation was made.

Learned Tribunal has erred in holding it to be a case of contributory negligence. It was found proved by learned Tribunal that there was no negligence or rashness on the part of the claimant in driving his motor cycle. The negligence had been on the part of truck driver and bus driver and, therefore, it is a case of composite negligence. In such a case, the claimant is entitled to claim compensation from one of the tort-feasors. The entire claim can be enforced against the Haryana Roadways and after payment of the entire compensation, the Haryana Roadways would, however, get a right to recover 50% of the amount, so paid, from the other tort-feasor.

In these circumstances, the appeal is allowed, holding

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the appellant to be entitled to enforce the award against the respondents, who shall then get the right to recover 50% of the amount paid by them from the other tortfeasor.

**(VIJENDER SINGH MALIK)
JUDGE**

23.09.2011.
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