

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****210****FAO-1614-2001 (O&M)****Date of decision: 31.01.2025****Labh Kaur and others****...Appellant(s)****Vs.****UOI and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ramneek Vasudeva, Advocate
for the appellants.

Mr. Roopam Jain, Advocate for
respondent No.1-UOI.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants seeking modification of the Award dated 28.08.2000 passed by the Motor Accident Claims Tribunal, Ropar (hereinafter referred to as 'the Tribunal') in MACT Case No. 48 dated 11.11.1998 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), whereby although compensation to the tune of Rs.4,35,600/- was awarded to the appellants/claimants, however only 50% thereof i.e. Rs.2,17,800/- was made payable to the appellants as the learned Tribunal had found the present to be a case of composite negligence. The Bus bearing registration No. CH-01-G-5171 (hereinafter referred to as 'the offending vehicle'), and the Jeep bearing registration No. HR-01-7081 (in which the deceased was



riding), were both held to be equally responsible for the accident in question. The 5 claimants were the widow, 20 year old unmarried daughter, and three minor children of the deceased Ramji Das Alias Ram Singh.

2. Brief facts of the case are that the deceased was a passenger in the Jeep bearing registration No. HR-01-7081 along with 7/8 persons. The learned Tribunal on the basis of the pleadings, oral and documentary evidence adduced before it, concluded that the deceased Ramji Dass @ Ram Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 13.09.1998, at about 3.10 p.m. due to the rash and negligent driving of the said Jeep bearing No. HR-01-7081; as also the bus bearing registration No. CH-01-G-5171/ the offending vehicle, which was being driven by respondent No.3; and is owned by respondent No.1; and insured by respondent No.4 herein. The above said compensation was awarded along with interest @ 12% per annum from the date of claim petition till realization.

3. Learned counsel for the appellants/claimants contends that as the drivers of both the vehicles were held to be equally responsible for the accident in question i.e. 50% negligence was of the offending vehicle, and 50% negligence was also of the driver of the Jeep in which the deceased was a passenger, the learned Tribunal had halved the total compensation of Rs.4,35,600/- and had directed the respondents No. 1, 3 and 4 herein to pay the amount of Rs.2,17,800/- only. Learned counsel contends that as the present was the case of composite negligence, therefore, the appellants could claim from either tortfeasor. It is incorrect to halve the compensation



on the ground that driver and owner of Jeep in question were not impleaded by the claimants, and therefore, no Award could be passed against them. It is accordingly prayed that the impugned Award be modified and the entire compensation be released to the appellants.

4. Learned counsel for the respondent No.1/UOI is unable to controvert or deny the above said submissions made on behalf of learned counsel for the appellants.

Heard.

5. The submissions made on behalf of learned counsel for the appellant are supported by judgment passed by a Coordinate Bench of this Court in '***Oriental Insurance Company Ltd. vs. Monika Verma and others***', ***Law Finder Doc Id# 144501*** wherein it is held that in case of composite negligence the claimant can recover the amount from one of the joint tort-feasors without even impleading the other tort-feasor as a party respondent; and in that situation the only remedy to the tort-feasor is to recover the amount from the other tort-feasor; but the claimant cannot be denied the full compensation. In another judgment passed by the Hon'ble Supreme Court in '***Khenyei vs. New India Assurance Co. Ltd. & others***', ***Law Finder Doc Id # 669171*** it is held that in case of composite negligence, plaintiff/claimant is entitled to sue both or any one of the joint tort feasors and to recover the entire compensation as liability of joint tort feasors is joint and several; and in the case of composite negligence, apportionment of compensation between two tort feasors vis a vis the plaintiff/claimant is not permissible. He can recover at his option whole damages from any of



them. The above said view has been followed by another Coordinate Bench of this Court in '*New India Assurance Company Ltd. and others vs. Lalita and others*' *Law Finder Doc Id # 1431394*.

6. In view of the above undisputed factual and legal position, the present appeal is **allowed**. The impugned Award is modified and it is directed that the claimants are entitled to the total compensation of Rs.4,35,600/-, as assessed by the learned Tribunal. Admittedly, 50% thereof already stands placed to the appellants. The remaining 50% i.e. ₹2,17,800/- be now paid to the appellants.

7. Pending application(s) if any also stand(s) disposed of.

31.01.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No