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**(1991) 09 P&H CK 0013**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Letters Patent Appeal No"s. 1104 and 1105 of 1982

Pepsu Road Transport Corporation

APPELLANT

Vs

Satya Devi and Others

RESPONDENT

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**Date of Decision :** 09-09-1991

**Acts Referred:**

Motor Vehicles Act, 1939 — Section 110A

**Citation :** (1992) ACJ 158

**Hon'ble Judges :** I.S. Tiwana, Acting C.J.;Jawahar Lal Gupta, J

**Bench :** Division Bench

**Advocate :** Hemant Kumar, for the Appellant; L.M. Suri, for the Respondent

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## **Judgement**

I.S. Tiwana, Actg. C.J.—This disposes of two Letters Patent Appeal Nos. 1104 and 1105 of 1982, which are directed against the same common judgment of the learned single Judge dated April 29, 1982, dealing with an application u/s 110-A of the Motor Vehicles Act, 1939 (hereinafter referred to as "the Act").

2. On 25th March, 1977 at about 9.30 a.m. an accident took place between bus No. PUB 2186, belonging to the Pepsu Road Transport Corporation, Patiala (L.P.A. No. 1104 of 1982) and Ram Nath, deceased cyclist, near the "T-junction", i.e., where the road from the Industrial Area, Chandigarh, joins the main Chandigarh-Ambala Highway. The claim application of the appellants (L.P.A. No. 1105 of 1982) was dismissed by the Motor Accidents Claims Tribunal, Chandigarh (for short "the Tribunal") for the reason that Avtar Singh, driver of the bus, was not at fault and rather the deceased was guilty of negligence as he suddenly appeared in front of the bus from the side of the Industrial Area and got crushed. The Tribunal, however, expressed that had the claim been allowed, he would have assessed it at Rs. 87,750/-. The learned single Judge while disagreeing with the first conclusion of the Tribunal that the fault was of the deceased Ram Nath and not that of the driver of the bus allowed the claim application by awarding compensation of Rs. 68,800/- to be distributed equally between the five claimants, i.e., the widow, three daughters and the son of the deceased. Both the

Pepsu Road Transport Corporation on whom the above noted liability has been fastened on account of Avtar Singh, driver, being its employee and the claimants have preferred these two appeals. Whereas the former questions its liability, the latter are not satisfied with the adequacy of the compensation amount.

3. Having considered the matter in the light of the submissions of the learned Counsel for the parties and the evidence on record, we are of the opinion that whereas the Corporation's appeal deserves to fail, the other has to be marginally allowed.

4. The sole submission of Mr. Hemant Kumar, counsel for the Corporation, is that the Tribunal was perfectly justified in holding that the accident was not the result of any fault or negligence on the part of the driver of the bus. We find it difficult to sustain this plea. It is not the case of the driver or the Corporation that while approaching the T-junction, the bus had been slowed down. This is in spite of the fact that regulation 6 of the Driving Regulations specified in the Tenth Schedule to the Act enjoins a duty on the driver of a motor vehicle that he "shall slow down when approaching a road intersection, a road junction or a road corner and shall not enter any such intersection or junction until he has become aware that he may do so without endangering the safety of persons thereon". Besides this, the facts and circumstances of the case, which have duly been noticed by the learned single Judge, clearly establish that the deceased was hardly at fault. As he reached the middle of the road, the front of the bus hit him and even dragged the body up to a distance of about 200 yards. It is not a case where the cyclist or the deceased had struck on the left side of the body of the bus. Had that been the situation, as is sought to be suggested by the learned Counsel for the Corporation, then the deceased would not have hit the front of the bus and been crushed under its wheels. Therefore, we have no hesitation in dismissing the appeal of the Corporation.

5. So far as the claim of the claimants is concerned, we are of the opinion that they are entitled to what was sought to be awarded to them by the Tribunal. There is no dispute with regard to the annual income of the deceased. The Tribunal assessed it at Rs. 65,000/- per annum, in the light of the income tax returns filed by the deceased, who was practising as a vaid. The Tribunal while evaluating the claim, as indicated earlier, concluded that the deceased must be spending about 1/10th of this income on himself and the remaining 9/10th on his family members, which as already pointed out, included his wife, three grown-up daughters and a son. The learned single Judge has disagreed with this approach of the Tribunal and has held that "no hard and fast rules can be laid down in this behalf and each case will depend on its own facts" but concluded that the deceased must not be spending anything more than Rs. 43,000/- per annum for the maintenance of his family. We, however, see no basis for this conclusion. As is pointed out earlier, the deceased had to feed at least five grown-up members and thus, could afford to spare only a marginal amount for himself. The conclusion of the Tribunal in this regard merits acceptance by us.

6. Consequently, we feel that the claimants are entitled to be compensated at the rate suggested by the Tribunal, i.e., Rs. 87,750/- with interest at the rate of 12 per cent per annum from the date of filing of the claim petition before the Tribunal up to the date of payment of the claim amount. We allow the appeal of the claimants (L.P.A. No. 1105 of 1982) with costs.

7. Both the appeals stand disposed of as indicated above.