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**(2008) 12 P&H CK 0152**  
**In the Punjab And Haryana At Chandigarh**

Tehal Singh and Another

APPELLANT

Vs

Pargat Singh and Others

RESPONDENT

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**Date of Decision :** 08-12-2008

**Acts Referred:**

**Citation :** (2006) ACJ 2703 : (2009) 153 PLR 453 : (2009) 2 RCR(Civil) 601

**Hon'ble Judges :** Rakesh Kumar Garg, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Rakesh Kumar Garg, J.—This is claimant's appeal challenging the award of the Motor Accident Claims Tribunal, Kurukshetra whereby the Tribunal held that the accident in question resulting into the death of Paramjit Singh, was caused due to rash and negligent driving of bus No. HR-07-2805 by its driver Parghat Singh-respondent No. 1 to the extent of 67 percent and due to the own negligence and carelessness of deceased to the extent of 33 per cent. The appellants have also challenged the determination of total compensation at Rs. 75,000/- being inadequate and have further claimed enhancement of compensation.

2. It has been argued by the learned Counsel for the appellants that in this case, admittedly, the deceased-Paramjit Singh was standing inside the bus and he fell down from the front window which got opened due to jerk caused to the bus because of rash and negligent driving by respondent No. 1-Parghat Singh and therefore, the Tribunal was wrong while fixing the liability of the deceased to the extent of 33 per cent on the basis of contributory negligence. In support of his case, learned Counsel has relied upon a judgment of this Court in the case of Gurmeet Kaur and five Ors. v. Punjab Roadways Ferozepur and Ors. 2006(4) R.C.R. 63 wherein it has been held that if a passenger standing with the door falls out of the bus on opening of the door the passenger cannot be held responsible, negligent and it will be the negligence of the bus.

3. Mr. P.S. Sullar, Assistant Advocate General, Haryana, appearing on behalf of

the State, was unable to controvert the argument of the learned Counsel for the appellants from the record of the case.

4. In view of the above, this appeal is allowed and the findings of the Tribunal on issue No. 1 to the effect where deceased Paramjit Singh has been held to be negligent to the extent of 33 per cent are set aside and it is held that Paramjit Singh died due to rash and negligent driving of bus No. HR-07-2805 by its driver Parghat Singh-respondent No. 1.

5. It may also be pointed out that the learned Counsel for the appellants was unable to point out any illegality with regard to the determination of compensation at Rs. 75,000/-. Since as a result of my finding on issue No. 1, it has been held that Paramjit Singh died due to rash and negligent driving of bus driver, the claimant-appellants will be entitled to the total amount of Rs. 75,000/- along with interest as granted by the Tribunal.

6. Thus, the appeal is allowed in the manner indicated above.