

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

**FAO No.7986 of 2015 (O&M)  
Date of decision: 30.11.2015**

United India Insurance Company Limited

....Appellant

Versus

Shanti Kaur and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

**Present:** Mr. Suman Jain, Advocate  
for the appellant.

**RITU BAHRI J. (Oral)**

The present appeal has been filed by the appellant-Insurance Company against the award dated 10.09.2015, passed by Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal'), whereby the claimants have been awarded a compensation of Rs.5,07,000/-, on account of the death of Boota Singh in a motor vehicular accident, which took place on 25.08.2014.

On 25.08.2014, Boota Singh along with Manjot Kumar resident of Dabwali boarded a bus bearing No.HR-57-4877 for going to Dabwali. The bus was overloaded. The driver of the bus started driving the bus at a very high speed and in a rash and

negligent manner. When the bus reached near Tarsem Petrol Pump, all of a sudden due to jerk, Boota Singh fell down from the bus and received serious injuries. The passengers of the bus made a noise and on this driver of the bus stopped the bus at a distance. Later on, Boota Singh was shifted to General Hospital, Dabwali where he succumbed to his injuries.

In this regard, FIR No.140 dated 09.06.2013, under Sections 279 and 304-A IPC, in respect of the accident in question, was got registered at Police Station Dabwali.

Consequently, the claimants-respondents filed a claim petition before the Tribunal.

Ultimately on the basis of the evidence led by the parties, the Tribunal has come to the conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No.1.

The claim petition was accepted by the Tribunal and a sum of Rs.5,07,000/- was awarded as compensation on account of death of Boota Singh along with future interest at the rate of 7½ % per annum from the date of filing of the petition till its realization.

The Insurance company is aggrieved against the findings of the Tribunal on Issue Nos.1 to 3 and has come up in appeal against the award of the Tribunal.

The deceased was travelling on the window of the bus and he had contributed to the accident even though, the bus was

overloaded. The Tribunal has taken into consideration the judgment passed by this Court in “*National Insurance Company Limited vs Jagwinder Kaur and others*”, 2015 ACJ 1128, wherein also same question arose. But in that case, the deceased was travelling on the roof of the bus when he came into contact with a hanging branch of the tree. The plea of the insurance company was that deceased was travelling on the rooftop was himself responsible for the accident and is guilty of contributory negligence. It was further held in that case that it was the duty of the driver and conductor of the bus that passengers should not travel on the foot-board or roof of the bus.

In the present case, there is no evidence on the file to show that the deceased-Boota Singh despite specific instructions from driver or conductor travelled in the bus while standing at the window.

So, keeping in view the above facts and circumstances, no ground for interference is made out and thus, the appeal filed by the appellant i.e. United India Insurance Company Limited, is hereby dismissed.

**(RITU BAHRI)**  
**JUDGE**

**30.11.2015**  
*yakub*