

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Misc. Appeal No. 490/2001

1. Pepsu Road Transport Corporation through its Managing Director, Nabha Road, Patiala, Director, Nabha Road, Patiala, Punjab.
2. Rajender Singh S/o. Sh. Labh Singh, B/c Jat Sikh, R/o. Killa Rampur, District Ludhiana, Punjab, At present Driver of Pepsu Road Transport Corporation, Patiala, Punjab.

----Appellants

Versus

Magan Lal @ Tigor S/o. Sh. Mangi Lal, aged about 22 years, B/C Kumhar, R/o. Old Lane Near Chopra Kua (Well), Gangasahar, Bikaner.

----Respondent-Claimant

Connected With

S.B. Civil Misc. Appeal No. 84/2003

Magan Lal @ Tigor S/o. Sh. Mangi Lal, aged about 29 years, B/C Kumhar, R/o. Old Lane Near Chopra Well, Gangasahar, Bikaner.

----Appellant-Claimant

Versus

1. Pepsu Road Transport Corporation through General Manager, Pepsu Road Transport Corporation, Ludhiana, Punjab.
2. Depo manager Pepsu Road Transportation Ludhiana.
-Vehicle Owner
3. Rajender Singh S/o. Sh. Labh Singh, B/c Jat Sikh, R/o. Kilaraypur, District Ludhiana, Punjab, At present Driver of Pepsu Road Transport Corporation, Patiala, Punjab.

----Respondents

For Appellant(s)	:	Mr. Dishant Kiroriwal
For Respondent(s)	:	None

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Judgment

10/02/2026

S.B. Civil Misc. Appeal No. 490/2001:-

1. Heard learned counsel for the appellant-Pepsu Road Transport Corporation.
2. Nobody is present on behalf of the respondent/claimant-Magan Lal.

3. The present appeal has been filed by the appellant- Pepsu Road Transport Corporation against the judgment and award dated 05.01.2001 passed by the learned Motor Accident Claims Tribunal, Bikaner (for short 'learned Tribunal') in M.A.C.T. Case No.41/1997, whereby, the learned tribunal while allowing the claim application filed by the claimant- Magan Lal held the appellant-Pepsu Road Transport Corporation liable to pay 50% of the awarded amount.

4. Briefly noted the facts in the present appeal is that the respondent/claimant- Magan Lal while driving on his moped (bike) met with an accident on 23.12.1995 with a bus bearing registration No.PB 11/C 9570 belonging to the appellant- Pepsu Road Transport Corporation, which was coming from the side of Bhagat Singh Chowk. In the said accident, the respondent/claimant Magan Lal sustained multiple injuries, for which he was treated at PBM Hospital, Bikaner. On account of the injuries suffered in the accident, the respondent/claimant Magan Lal filed a claim petition before the learned Tribunal seeking award of suitable compensation. The learned Tribunal, after framing of the issues decided the claim petition of the respondent/claimant Magan Lal vide judgment and award dated 05.01.2001 and awarded total compensation to the tune of Rs.4,21,761/-. Since, the respondent/claimant Magan Lal was found 50% negligent in the accident, therefore, the compensation was reduced by 50% and the appellant- Pepsu Road Transport Corporation was directed to pay only Rs.2,10,880/- as compensation to the respondent/claimant. Hence, the present appeal has been filed by the appellant-Pepsu Road Transport Corporation challenging his liability to the extent of 50% of the awarded amount.

5. Learned counsel for the appellant- Pepsu Road Transport Corporation vehemently submits that the findings on Issue Nos. 1 & 4 are erroneous on the ground that the bus was being driven by its driver Rajendra Singh on the correct side of the road and it was squarely the fault of respondent/claimant Magan Lal, who was rashly and negligently driving his moped (bike), thus, causing accident on 23.12.1995. He further submits that a bare perusal of the site plan (Ex.-3) placed on record clearly shows that the accident took place at the center of the road. He also submits that since the bus was coming from Sangariya and was being driven on the correct side i.e. left side of the road, it was the fault of the respondent/claimant Magan Lal, who was coming from the Bhagat Singh Chowk and who should have driven his moped (bike) on the extreme left side of the road, however, due to his rash and negligent driving, he came in the center of the road collided with the front portion of the bus. Thus, he sustained injuries on account of his own fault.

6. Learned counsel for the appellant- Pepsu Road Transport Corporation further submits that even in the cross examination of AW-1 (Magan Lal), he has admitted that he had seen the bus from a distance and that the bus was being driven on his correct side. He further submits that a cumulative reading of the site plan and the statement of respondent/claimant Magan Lal, clearly establishes that respondent/claimant Magan Lal was driving his moped (bike) rashly and negligently and met with an accident with the bus of the appellant- Pepsu Road Transport Corporation which was being driven by its Driver-Rajendra Singh, on correct side of the road.

7. Learned counsel, therefore, submits that fastening 50% liability upon the appellant-Pepsu Road Transport Corporation on the basis of contributory negligence is incorrect, arbitrary and unreasonable. He, therefore, submits that the findings recorded by the learned Tribunal on Issue Nos. 1 & 4 are erroneous and therefore, it deserves to be held that the appellant-Pepsu Road Transport Corporation was not responsible for the accident in question and, therefore, is not liable to pay any compensation in the present case.

8. None appears on behalf of the respondent/claimant- Magan Lal to oppose the submissions made by the learned counsel for the appellant-Pepsu Road Transport Corporation.

9. I have considered the submissions made at the Bar and gone through the relevant record of the case including the impugned judgment and award dated 05.01.2001.

10. It is undisputed in this case that on 23.12.1995 respondent/claimant Magan Lal while riding his moped (bike), met with an accident and collided with the bus of the appellant-Pepsu Road Transport Corporation thereby sustained multiple injuries in the accident. The respondent/claimant Magan Lal was treated at PBM Hospital, Bikaner and on account of this accident, a claim petition was filed. In the claim petition, a number of issues were framed and the learned Tribunal, after deliberating on each issue passed an award dated 05.01.2001. It has been held that both the parties are responsible to the extent of 50% each and, therefore, on the basis of a contributory negligence, total award of Rs.4,21,761/- has been passed, however, the appellant-Pepsu Road Transport Corporation was held liable to pay a sum of Rs.2,10,880/- to the respondent/claimant Magan Lal.

11. It is noted that in the present appeal, the only challenge has been made by the appellant-Pepsu Road Transport Corporation on the findings recorded on Issue Nos. 1 & 4. A close study of Exhibit-3 shows that the accident had taken place in the center of the road, where the bus is coming from Sangariya side collided with the moped(bike), which was being driven by the respondent/claimant Magan Lal, who was coming from Bhagat Singh Chowk. The statement of the respondent/claimant Magan Lal further fortifies the fact that the accident occurred on the Chak Jawala Singhwala Road, in which he sustained multiple injuries and since the place of accident is shown to be the center of the road, it can safely be presumed that both the vehicles were being driven negligently. The learned Tribunal has closely analyzed the evidence, which has come on record and has rightly come to the conclusion that the claimant- Magan Lal was also partly responsible for the accident in the present case. It will be worthwhile to reproduced the findings recorded by the learned Tribunal on Issue Nos.1 & 4 :-

“नक्शा मौका प्रदर्श-3 और हालात मौका प्रदर्श-4 के अवलोकन से यह पाया जाता है कि दुर्घटना स्थल नक्शा मौका प्रदर्श-3 में ‘ए’ स्थान पर है जो करीब-करीब सड़क के बीच में है और वहां भगतसिंह चौराहा से आने वाली मोपेड चक ज्वालासिंह वाला जाने के लिये मुड़ती हुई पायी जाती है और बस सांगरिया की तरफ से सीधी आती पायी जाती है। सड़क पर मोपेड एवं बस के दोनों के टायरो के रगड़ के निशान दर्शाए गये हैं। इसे ऐसा प्रतीत होता है कि मोपेड चालक प्रार्थी ने भी बस को देखकर मोपेड को रोकने का प्रयास किया और इसी क्रम में सड़क पर टायरों के निशान बने हैं और बस चालक ने भी बस को रोकने का प्रयास किया उसी क्रम में सड़क पर टायरों के निशान बने हैं। अर्थात् दोनों वाहन तेज रफ्तार में और एक दूसरे से पहले दुर्घटना स्थल को पार करने के प्रयास में ही तेज रफ्तार से चल रही गाड़ियों को रोकने का प्रयास करते हुए भी सड़क के एकदम बीच में टकरा गए। इस प्रकार दोनों वाहनों के चालक दुर्घटना के लिए बराबर के भागीदार है अर्थात्

प्रार्थी मगनलाल एवं अप्रार्थी राजेन्द्रसिंह बस चालक दुर्घटना के लिए 50-50 प्रतिशत उपेक्षा के दोषी हैं। प्रमुख तथ्य यह है कि दुर्घटना कारित करने वाली अप्रार्थीगण की बस सड़क पर बायीं तरफ नहीं थी अर्थात् यातायात नियमों का उल्लंघन करते हुए सड़क के बीच में चल रही थी और मोपेड चालक प्रार्थी ने भी मोपेड को तेज रफ्तार से चलाते हुए ही वाहन को रोकने का प्रयास किया और टायरों के निशान सड़क पर बने। यदि बस की रफ्तार तेज थी तो चूंकि बस एक बड़ा वाहन है इसलिए मोपेड चालक प्रार्थी का कर्तव्य है कि वह इस वाहन को पहले निकलने देता परंतु दोनों ही वाहन चालको ने नजदीक आने पर ही अपने-अपने वाहन को रोकने का प्रयास किया।”

12. As far as, the argument of the learned counsel for the appellant-Pepsu Road Transport Corporation is concerned that in the statement of the respondent/claimant Magan Lal, he has admitted that the bus was coming on its correct side, it is sufficient to observe that such an admission by itself cannot be the sole basis to come to the conclusion that it was the entire fault of the respondent/claimant Magan Lal. The said statement is required to be read in complete and not in isolation.

13. In the totality of the circumstances, in the considered opinion of this Court, the learned Tribunal has rightly evaluated and accessed the evidence available on record and has correctly come to the conclusion that both the parties were negligent thereby causing the accident in the present case and, therefore, on the basis of principle of contributory negligence, an amount of compensation has been reduced by 50% against the appellant-Pepsu Road Transport Corporation. The findings recorded by the learned Tribunal do not suffer from any infirmity.

14. Hence, the present appeal fails and the same is hereby dismissed.

S.B. Civil Misc. Appeal No. 84/2003 :-

1. None present on behalf of the appellant-claimant – Magan Lal.
2. Mr. Dishant Kiroriwal, learned counsel appears on behalf of the respondent- Pepsu Road Transport Corporation.
3. The present appeal has been filed by the appellant-claimant Magan Lal for enhancement of the award amount awarded by the learned Motor Accident Claims Tribunal, Bikaner (for short 'learned Tribunal') in M.A.C.T. Case No.41/1997 vide judgment and award dated 05.01.2001, whereby, the claim petition filed by the appellant-claimant Magan Lal was allowed and a total compensation of Rs.4,21,761/- was awarded, however, since the learned tribunal held that both the appellant and the respondent was negligent, therefore, it has been held that the appellant-claimant Magan Lal shall be entitled for compensation to the tune of Rs.2,10,880/-, which shall be paid by the respondent-Pepsu Road Transport Corporation.
4. The facts of the present case have already been noted while passing the order in SBCMA No.490/2001.
5. I have gone through the relevant record of the case including the impugned judgment and award dated 05.01.2001.
6. This Court feels that the computation of the award has been made on the basis of the injuries suffered by the appellant-claimant- Magan Lal and the bills produced by him for the treatment extended to him.

7. In the considered opinion of this Court, the amount is required to be re-computed in the light of Rajasthan State Legal Services Authority Guidelines, 2024 (for short 'RALSA Guidelines, 2024').

8. Learned counsel for the respondent-Pepsu Road Transport Corporation is not in a position to refute the facts that the amount in the present case is required to be re-computed in the light of RALSA Guidelines, 2024. Thus, keeping-in-mind the factors intact utilized by the learned Tribunal, the amount in the present case is re-computed as under :-

1.	Age of the injured	25 Years
2.	Permanent Disability	52%
	Calculation :- Rs.35,000/- + Rs.6,500/- for each % of disability X 52= Total = Rs.35,000/- + 3,38,000=3,73,000/-	Rs.3,73,000/-
3.	Injuries and there amount payable :- Three simple Injuries :- Rs.3500x3=10,500/-	Rs.10,500/-
4.	Hospitalization amount payable :- Rs.600/- per day x 145 days=87,000/-	Rs.87,000/-
5.	Medical Bills	Rs.8,511/-
6.	Loss of Income 145 Days x Rs.700/- per day=1,01,500/-	Rs.1,01,500/-
7.	Pain & Suffering :- 25% since the injured is less than 30 years Total award excluding hospitalization & Medical Bills :- (Rs.3,73,000/- + 10,500/- + 1,01,500/- =Rs.4,85,000/-) Rs.4,85,000/- x 25/100=1,21,250/-	Rs.1,21,250/-
8.	Total Award :- Addition of all the heads = Rs.7,01,761/-	7,01,761/-
(-)	Award by the Tribunal vide judgment and award dated 05.01.2001.	Rs.4,21,761/-
9.	Enhanced amount Rupees :	Rs.2,80,000/-

9. Since the finding of the learned tribunal holding the respondent - Pepsu Road Transport Corporation liable to pay 50% of the awarded amount, as well as the finding of the learned tribunal that the appellant-claimant was also negligent in the accident, has been upheld by this Court while rejecting the appeal preferred by the respondent- Pepsu Road Transport Corporation, therefore, out of the total enhanced amount of **Rs.2,80,000/-**, the appellant-claimant shall be entitled amount of compensation to the tune of **Rs.1,40,000/-** (50% of the enhanced amount on the basis of the contributory negligence), which shall be paid by the respondent- Pepsu Road Transport Corporation to the appellant-claimant- Magan Lal in addition to already awarded amount by the learned tribunal vide its judgment and award dated 05.01.2001 within a period of six weeks from today. The enhanced amount shall carry interest @ 6% per annum from the date of filing the claim-petition by the claimant till the same is paid.

10. The present appeal is therefore, partly allowed accordingly.

(VINIT KUMAR MATHUR),J