
(2013) 11 GUJ CK 0035
In the Gujarat High Court
Case No : First Appeal No. 1930 of 2007

A.M.T.S.

APPELLANT

Vs

Prabhudas Narandas Ved

RESPONDENT

Date of Decision : 20-11-2013

Acts Referred:

Citation : (2013) 11 GUJ CK 0035

Hon'ble Judges : M.D. Shah, J

Bench : Single Bench

Advocate : H.S. Munshaw, for the Appellant; K.M. Antani, Advocate for the Defendant Nos. 1.1 and 1.3, for the Respondent

Final Decision : Dismissed

Judgement

M.D. Shah, J.—This appeal has been filed by the original opponent-Ahmedabad Municipal Transport Service being aggrieved and dissatisfied with the judgment and award dated 31-8-2006 passed by the Motor Accidents Claims Tribunal at Ahmedabad in MACP No. 347 of 2000 partly allowing the claim petition and awarding Rs. 2,05,830/- with running interest @ 9% per annum. Heard learned advocates for the respective parties.

2. It is submitted by learned advocate for the appellant that the claimant was solely negligent for the accident. It is further submitted that the bus, which was 33 feet away from the bus-stand, was in running condition, inspite of that, the injured claimant got down from the bus and because of the sole negligent of the claimant himself, this incident took place. It is further submitted that only janvajog entry was registered and offence was not registered by the police against the AMTS driver. It is further submitted that as per the deposition of the driver of AMTS bus, the claimant himself was solely negligent for the accident. The tribunal has not considered all these aspects and thereby committed error in fastening negligence on the part of driver of AMTC and, therefore, it is requested that this appeal requires to be allowed by quashing and setting aside the impugned judgment and award.

3. This Court has gone through the impugned judgment and award passed by the Tribunal together with oral as well as documentary evidence on record.

4. It appears that the Tribunal has discussed the evidence in great detail. It is to be noted that when bus was 33 feet away from the bus-stand, incident in question took place and injured received serious injuries resulting into amputation of his three fingers of his left hand. It is also to be noted that appellant has not examined conductor of the bus to know the extent of negligence caused by the driver and the claimant. Prima facie, it seems that door of the bus was opened and because of the jerk, injured claimant fell down from the bus and sustained by the injured and hence, in the opinion of this Court, the tribunal has committed error in holding that the claimant was negligent to the extent of 10%. Even if negligence on a higher side on the part of the claimant is considered, then also, it can be seen that under the head of pain, shock and suffering, only an amount of Rs. 15,000/- has been awarded by the Tribunal. Considering all these aspects, this Court is of the opinion that on the aspects of negligence and quantum, the findings arrived at by the Tribunal are just, legal and proper considering all the oral as well as documentary evidence on record and since no error is committed by the Tribunal in the said findings, same are not required to be interfered with in this appeal. Hence, this appeal requires to be dismissed.

5. This appeal is dismissed. Office to send back the records and proceedings, if any, forthwith.