

(2011) 05 DEL CK 0414

In the Delhi High Court

Case No : Writ Petition (Civil) No. 3711 of 2011

Delhi Transport Corporation

APPELLANT

Vs

Jai Pal Singh

RESPONDENT

Date of Decision : 27-05-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 279, 304A

Citation : (2011) 05 DEL CK 0414

Hon'ble Judges : Dipak Misra, C.J.; Sanjiv Khanna, J

Bench : Division Bench

Advocate : J.S. Bhasin, for the Appellant;

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J.—Delhi Transport Corporation has filed the present writ petition impugning order dated 23rd December, 2010, allowing O.A. No. 765/2010 filed by the Respondent, Jai Pal Singh.

2. Learned Counsel for the Petitioner has submitted that the disciplinary authority had rightly imposed punishment of stoppage of next two annual increment with cumulative effect vide order dated 11th July, 2002, which was affirmed by the appellate authority by their orders dated 5th September, 2002 and 19th November, 2009 and, therefore, the Central Administrative Tribunal should not have interfered.

3. The Respondent is a driver with the Petitioner and was served with the chargesheet dated 21st June, 2001 in which it was alleged that while driving a bus from Amritsar to Delhi, he had caused a fatal accident near Rajpura.

4. The aforesaid accident had resulted in registration of FIR No. 406/2000 u/s 279/304A of the Indian Penal Code. It is admitted position that the trial court acquitted the Respondent, inter-alia, holding that the Respondent was not negligent and in fact the deceased had suddenly crossed the road in a negligent manner. The tribunal in this regard has relied upon Circular No. 201 dated 24th

November, 1954 that in such cases, action should not be taken against the driver unless he is convicted by a Criminal Court. However, what is material and relevant is the findings and statement of Diwan Singh, Assistant Traffic Inspector who was required to inspect the spot and submit his report. In his report, he had stated as under:

upon inspection of the spot it was found out that one truck cleaner got down from the left side door of his truck and after crossing the front side of his truck ran to the other side for paying the toll tax. At the same moment, bus No. 3434 had already reached that place and that man hit the body of the bus and fell back on the wheel of the truck and was hit by bolt on head. In this incident the truck cleaner was careless and he should have crossed the road carefully and he should not have ran in front of the bus. In this accident, our driver was not at fault. I have nothing else to say in this regard.

5. We are conscious of the fact that the standard of proof in criminal proceedings is different from the standard of proof in civil proceedings but in the present case, the Tribunal has rightly decided the question of negligence keeping in view the finding of the criminal court as well as statement of Diwan Singh, Assistant Traffic Inspector who had appeared as a witness of the management. The departmental authorities had not given due weightage and consideration to the statement of Diwan Singh who had visited the spot and had made enquiries. In case the Respondent was negligent and had caused death, it is obvious that the punishment of stoppage of two annual increment with cumulative effect was grossly inadequate. Thus there is a contradiction in the order of the authorities. It is apparent that they too were not convinced about the allegation of negligence made against the Respondent.

6. In view of the aforesaid, we do not find any merit in the present writ petition and the same is dismissed.