
(2014) 04 P&H CK 0260

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 6145 of 2012 (O&M)

General Manager,Punjab Roadways

APPELLANT

Vs

Mast Ram

RESPONDENT

Date of Decision : 04-04-2014

Acts Referred:

Citation : (2015) ACJ 753 : (2014) 175 PLR 499

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : R.S. Ahluwalia, Advocate for the Appellant

Final Decision : Dismissed

Judgement

K. Kannan, J.—The respondent-driver Jasraj Singh has not been served and the return is that he has retired from service. Since the appeal is at the instance of the Roadways, notice to the said respondent is dispensed with. All the appeals would require to be dismissed on a singular consideration of whether the Punjab Roadways which was the owner of the vehicle, could not be made liable for a bomb-blast that took place in the bus. The meaning of death or injury by the use of a motor vehicle has obtained an expansive meaning and there are typical instances of cases where the owners of the vehicle have been made liable for such acts. There could be exclusion of liability for an insurer for civil war or such like instances as are set out u/s 149(2). There shall however be no exclusion of liability for an owner to contend that the death resulting out of a bomb blast cannot leave a valid trail of cause of action. A person that gets into the bus subjects himself to the due care of the owner and the persons who manned the vehicle. The liability is founded on a tort law principle of duty of care that is owed to a person and where there has been a breach of such duty. An act of terrorism ought not to be taken as an act of God. It is the antithesis of anything godly. The liability shall, therefore, be surely anchored to the owner whose vehicle was a death trap to the passengers.

2. All these cases have been filed long after the incident. There is no period of limitation for entertaining the claims before the Motor Accident Claims Tribunal as laid down by the decision of the Supreme Court in Dhannalal Vs. D.P. Vijayvargiya and Others,

3. This is just not an isolated instance. The Supreme Court has had occasions to deal with such cases where the transporter/insurer have been made liable, wherever transport vehicles were involved. Punjab had a serious history of terrorist menace, as was the experience in some north eastern States of India. In Samir Chanda Vs. Managing Director, Assam State TPT. Corpn., the Supreme Court noted as abnormal the situation then prevailing in Assam and held in a similar incident of bomb blast in a passenger bus, that there ought to have been a police escort in every bus. It took the passengers' death as a result of "use of motor vehicle". No evidence has been brought in this case about any extra caution for the protection of passengers in a vitiated atmosphere of prevalent terrorist menace. In a direct reference to a case in Punjab of bomb blast in a bus, this Court has held in Municipal Council/Committee Vs. Tara Singh and Others, that death in a bomb blast in a bus to be "arising out of the use of a motor vehicle". The compensations awarded are very modest i.e. in the range of Rs. 1,20,000/- and this would not require to be reappraised. There is simply no justification for a State to enter defence in this case denying the entitlement and persisting with an appeal before this court. It, on the other hand, must have rushed aid and provide sufficient consolation through appropriate State financial support. All the appeals are dismissed.