

(2010) 09 GUJ CK 0061

In the Gujarat High Court

Case No : First Appeal No's. 1993 of 1982 and 1931 of 1984 and Cross
Objection No. 148 of 2006 in First Appeal No. 1993 of 1982

GSRTC

APPELLANT

Vs

Sujabai and Others

RESPONDENT

Date of Decision : 08-09-2010

Acts Referred:

Citation : (2010) 09 GUJ CK 0061

Hon'ble Judges : D.A. Mehta, J

Bench : Single Bench

Advocate : Maya Desai, for M.D. Pandya, for the Appellant; S.L. Vaishya, for Defendants 1-3, Rajni H. Mehta, for Defendants 6-8, Mehul H. Rathod, for Defendants 6-7 and D.T. Shah, for Defendants 7-8, for the Respondent

Final Decision : Dismissed

Judgement

D.A. Mehta, J.—All these matters are taken up together as they arise out of common judgment and award made by Motor Accident Claims Tribunal (Main) Banaskantha at Palanpur in Motor Accident Claims Petition No. 183 of 1980.

2. Appellant of First Appeal No. 1993 of 1982 is Gujarat State Road Transport Corporation (S.T. Corporation), while appellant of First Appeal No. 1931 of 1984 are original opponent Nos. 2 and 1 in the claim petition viz. Owner and Driver of Jeep bearing No. GJE 6231. On 6.8.1980 at around 2.00 p.m. the aforesaid jeep met with an accident with bus bearing No. GRS 7926 belonging to S.T. Corporation. Various persons travelling in the jeep are the original claimants. After hearing the parties and after considering the evidence on record the Tribunal has awarded a sum of Rs. 33,800/- with proportionate costs and interest @ 6% per annum proportionately from the Driver and the Owner of the S.T. Bus as well as the Driver and Owner of the jeep. The contributory negligence has been worked out to the tune of 75% insofar as Driver and Owner of the jeep are concerned and 25% insofar as the Driver of the bus and the S.T. Corporation are concerned.

3. The Driver and the Owner of the jeep have also filed cross objection challenging the apportionment of the liability on the basis of contributory negligence worked out by the Tribunal. Considering the total awarded amount of Rs. 33,800/- it is apparent that the liability of S.T. Corporation would be only to the extent of 25% thereof viz. Rs. 8,450/- only. Similarly insofar as the liability of the Owner and Driver of the jeep is concerned, 75% of the awarded amount would come to Rs. 25,350/- only.

4. Insofar as the finding relatable to contributory negligence is concerned, the Tribunal has discussed the evidence in paragraph No. 35 of the judgment impugned including photographs produced at Exhibits 83,98 and 99. Thus it is apparent that the Tribunal has recorded pure finding of fact on the basis of appreciation of evidence on record and nothing has been shown by any of the appellants as to how the said finding is incorrect. Considering the total amount involved, the Court does not find it necessary to discuss the evidence in detail. Suffice it to state that the working out of contributory negligence at 75% insofar as the Driver of the jeep is concerned and 25% insofar as the Driver of the S.T. Bus is concerned does not appear to be incorrect in any manner whatsoever so as to warrant interference.

5. Insofar as the other heads under which the amount is awarded, considering the smallness of the amount, no interference is warranted.

6. Accordingly, First Appeal No. 1993 of 1982 filed by S.T. Corporation, First Appeal No. 1931 of 1984 filed by the Owner and Driver of the jeep and Cross Objection No. 148 of 2006 also filed by Owner and Driver of jeep are all dismissed with no order as to costs.