

(2010) 12 GUJ CK 0026
In the Gujarat High Court
Case No : First Appeal No. 921 of 1989

Guj. State Road Transport Corpn.

APPELLANT

Vs

Chandrashekhar Ramchandra Dwivedi and Others

RESPONDENT

Date of Decision : 08-12-2010

Acts Referred:

Citation : (2010) 12 GUJ CK 0026

Hon'ble Judges : K. S. Jhaveri, J

Bench : Single Bench

Advocate : Hardik C. Rawal and S.N. Shelat, for the Appellant; Mehul S. Shah, for Defendant 1 and Rajni H. Mehta, for Defendants 3-4, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Jhaveri, J.—This appeal has been filed against the judgment and award passed by the Motor Accident Claims Tribunal (Main), Vadodara in M.A.C.P. No. 102/1987 dated 30.12.1988, whereby, the claim petition has been partly allowed and the Appellant-Corporation has been held liable to pay an amount of Rs. 4,13,900/- together with interest @ 12% p.a. from the date of application till its realization as compensation to the original claimants.

2. The facts in brief are that on 19.09.1986 at around 2200 hrs. Respondent No. 1 herein, original claimant, was travelling in an ST bus bearing registration No. GRU 7598 belonging to the Appellant-Corporation. At that time, the said bus dashed the right rear portion of a stationary Truck bearing registration No. GRR 5214 which was parked on the side of the road. As a result thereof, the ST flung into a ditch and he sustained severe bodily injuries. He was taken to the Hospital for necessary treatment. Thereafter, he filed the claim petition before the Tribunal claiming compensation of Rs. 6.00 Lacs. The Tribunal partly allowed the same by way of the impugned award. Hence, this appeal.

3. Heard learned Counsel for the respective parties and perused the documents on record. The main contention raised by the Appellant-Corporation is that the

accident in question took place not on account of the sole negligence of the driver of the ST bus but, also on account of the negligence of the driver of the Truck bearing registration No. GRR 5214. It has been submitted that had the Truck been properly parked, then the accident in question would not have taken place. Further, it has also been contented that the disability assessed is also on the higher side.

4. Having gone through the records of the case, more particularly, the panchnama at Ex.37, it is established that the ST bus had dashed the stationary Truck on its right rear portion by the left front portion. The impact was such that the Truck was pushed ahead for a distance of about 65" feet and was lying in the ditch. Moreover, there were dents on the right rear portion of the Truck. The Truck in question was also found to be correctly parked on the side of the road. Thus, looking to the entire evidence available on record, I find that the accident in question took place on account of the sole negligence of the driver of the Appellant-Corporation.

5. So far as the issue regarding disability is concerned, the same has been assessed at 85%. To prove the same, the claimant had examined Dr. Paresh Golwala at Exh.49. In his evidence, he has deposed that the claimant had tenderness over the amputation stump and therefore, the permanent physical impairment for left lower limb is 85%. Looking to the medical evidence on record, the assessment made is just and proper and I find no illegality with the same. I am in complete agreement with the reasonings given by and the findings arrived at by the Tribunal in the impugned award and hence, find no reasons to interfere with the same.

6. For the foregoing reasons, the appeal is dismissed. No costs.