

(1991) 01 MP CK 0009
In the Madhya Pradesh High Court

Jarnail Kaur

APPELLANT

Vs

Pepsu Road Transport Corporation and Others

RESPONDENT

Date of Decision : 15-01-1991

Acts Referred:

Citation : (1991) 2 ACC 82

Hon'ble Judges : J.V. Gupta, C.J;R.S. Mongia, J

Bench : Division Bench

Judgement

J.V. Gupta, C.J.—This is claimants' Letters Patent Appeal, whose claim has been rejected by both the courts below on the ground that the accident has been caused due to the negligence of the deceased.

2. The accident took place on 14.1.1973 at about 3.45 p.m. Capt. Isher Pritpal Singh while coming on a Scooter met with an accident with P.R.T.C. Bus No. PUP-2807 when he came to the Sangrur-Samana Road. He died few hours later on account of the injuries received by him in the said accident. The claim application was filed on behalf of his widow-Jarnail Kaur and his three Children. The learned Tribunal after appreciating the entire evidence came to the conclusion that thus, from the evidence brought on the record, coupled with the circumstances and the manner in which the accident took place, it is clear that the accident had not taken place, due to the rash and negligent driving of Ranjit Singh, bus driver but that accident took place due to the driving of the scooter by Ishar Pritpal Singh, causing him injuries, resulting in his death. "In view of that finding, the claim petition was dismissed. In appeal, the learned Single Judge affirmed the said findings of the Tribunal with the following observations" seen in the totality of the circumstances of the case, the finding of the Tribunal that the accident was not caused by the rash and negligent driving of the Bus driver warrants no interference in appeal.

3. Learned Counsel for the appellants submitted that the evidence on the record has not been properly appreciated. According to the learned Counsel, from the evidence on record it was amply proved that the accident took place due to the

rash and negligent driving of the bus. He also submitted that reliance has been placed on the affidavit of P.W. 9 Maninder Singh, which according to him was minor and, therefore, could not be relied upon.

4. After hearing learned Counsel for the appellants we do not find any illegality in the findings of the two courts below so as to interfere in the Letters Patent Appeal. The entire evidence has been examined by both the Courts below and have come to a firm finding that the negligence was of Scooter's driver i.e. the deceased and not of bus-driver. It is pertinent to note that Umrao Singh who was undoubtedly the best witness to the occurrence being on the scooter with the deceased, when the accident took place, was not produced. Moreover, Faqire Chand P. W. has stated that the bus had slowed down at the crossing of the road near the Hospital and further that after the accident the Bus had stopped just near the deceased. This fact is indicative of the slow speed at which the Bus must have been travelling at that time.

5. In view of the above circumstances, the appeal fails and is dismissed with no order as to costs.