

(1974) 07 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 253 of 1971

Pepsu Road Transport Corporation

APPELLANT

Vs

Roshan Lal Gupta and Another

RESPONDENT

Date of Decision : 25-07-1974

Acts Referred:

Citation : (1975) ACJ 326

Hon'ble Judges : Man Mohan Singh Gujral, J

Bench : Single Bench

Advocate : Pawan Kumar and D.S. Nehra, for the Appellant; R.L. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Man Mohan Singh Gnjral, J.—On 24th July 1968 at about 8 A.M. a jeep belonging to the Beas-Sutlej Link Workers" Union, Sundernagar, was proceeding from Chandigarh to Sundernagar and when it reached near Solkhian on Rupar-Kurali Road a bus belonging to the Pepsu Road Transport Corporation and bearing number PNT-9010 came from the opposite direction and struck against the jeep. As a result of this impact, the jeep was completely smashed and three occupants of the jeep, namely, Ram Sarup, Gurbax Singh and Khushal Singh died at the spot while Roshan Lal Gupta and Nitya Nand who were also traveling in the jeep received injuries. At that time the bus was being driven by Gurdial Singh driver of the Pepsu Road Transport Corporation. The injured were removed to the hospital at Rupar where they were examined and subsequently a number of claim petitions were filed under the Motor Vehicle Act. One of the petitions was filed by Roshan Lal Gupta who had received injuries in the accident, and the allegations in the petition were that the accident was caused by the negligent, careless and rash driving on the wrong side by the driver of the bus. Roshan Lal Gupta claimed compensation for loss of earning capacity, medical expenses and for pain and suffering. The claim petition was contested and on the pleadings of the parties the following issues were framed.

1. Whether the unfortunate accident took place due to rashness, negligence and rash driving of Gurdial Singh Respondent No. 1. driver of vehicle No. PNT-9010 owned by Respondent No. 2?

2. To how much compensation the Petitioners are entitled to get, if so from whom?

The Motor Accident Claims Tribunal held that the accident was caused by the negligence of the driver of the bus and found issue No. 1 against the Respondent Appellant. Under issue No. 2 it was found that Roshan Lal Gupta was entitled to get compensation for pain and suffering and on account of loss of earnings and expenses of treatment. Being dissatisfied, the Pepsu Road Transport Corporation has filed the present appeal and the findings on both the issues have been challenged before me.

2. So far as the liability of the driver for the accident is concerned, it is amply established on the evidence on the record. Hino Ram PW 3, Nitya Nand PW 4 and Roshan Lal Gupta PW 5 have deposed about the manner in which the occurrence took place, and according to them, the jeep was being driven on its correct side when the bus came from the opposite direction and struck against it. It is further in their testimony that at that time the bus was being driven rashly and negligently.

3. In rebuttal, only Gurdial Singh driver appeared and stated that the jeep was going at a high speed and struck against the bus. It is not disputed that a number of passengers were traveling in the bus and none of them has come forward to support the story set up by Gurdial Singh. This circumstance would militate against the truth of his version. Leaving this apart, the spot where the impact had taken place would clearly belie the assertion of the driver that it was the jeep which had struck against the bus. I am, therefore, clearly of the opinion that the accident had resulted from negligent and rash manner in which the bus was driven by Gurdial Singh. The findings of the Tribunal on this issue are upheld.

4. As regards the amount of compensation, the claim of the injured was for a sum of Rs. 10,000/- and was based on loss of earning capacity, medical expenses and for pain and suffering. The learned Tribunal found that his discharge from service was not due to the injuries suffered by him but was caused by his absence from duty. As no document had been produced to show that the injured had applied for leave and the leave had been refused, the view taken by the Tribunal was that there was no material on the record to connect the discharge of the applicant with the injuries.

5. These findings have not been challenged before me as no cross-appeal has been filed on behalf of the claimant.

6. The Tribunal awarded Rs. 3,000/- to the claimant for pain and suffering. It has been brought out in evidence that the leg of the claimant was injured and he had to use crutches for about four months. It is further brought out that during at

this period he was under treatment and was absent from his job. The statement of the claimant, which has been accepted, further was that he was in the hospital for about 2 months and then attended the hospital as an outdoor patient till the end of November, 1968. On the basis of this evidence, the learned Tribunal came to the conclusion that the shock and pain suffered by the claimant entitled him to a compensation of Rs. 3,000/-. The learned Counsel for the Appellant has been unable to persuade me that the view taken by the Tribunal was unjust or was unwarranted by the circumstances.

7. The claimant has also been awarded Rs. 1,000/- for loss of earning and for medical expenses. The claimant could not attend to his duty for about four months, and in view of this, Rs. 500/- was allowed as the loss suffered by him for his inability to work. This figure is also not excessive. Furthermore, the claimant has been awarded Rs. 500/- for expenses of his treatment. No doubt, the claimant did not specifically give details of the money spent by him, but having regard to the costs of medicines and the rise in prices it cannot be said that the amount awarded to the claimant was improper or unjust.

8. For the reasons stated above, I uphold the findings of the Tribunal on issue No. 2 also. No other point has been raised before me. The result is that the appeal fails and is dismissed with costs.