
(2012) 03 RAJ CK 0044

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 1031 of 2012 and Civil Miscellaneous Stay Application No. 792 of 2012

Rajasthan State Road Transport Corporation and Another

APPELLANT

Vs

Smt. Santosh Devi and Others

RESPONDENT

Date of Decision : 29-03-2012

Acts Referred:

Citation : (2012) 03 RAJ CK 0044

Hon'ble Judges : Mahesh Bhagwati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Bhagwati

1. Challenge in this appeal is to the judgment and award dated 6th January, 2012, whereby the Motor Accident Claims Tribunal, Kotputali, District Jaipur, decreed an amount of Rs. 4,60,000/- in favour of the respondents- claimants and against the appellant Rajasthan State Road Transport Corporation (hereinafter to be referred in short as "RSRTC"). Adumbrated in brief, the facts of the case are that on 12th July, 2010, the deceased Hawa Singh and Surendra Singh were going by motor-cycle bearing Registration No. HR-36-M- 3525 from Neem Ka Thana to their village Manota, Tehsil Mundawar. It is alleged that no sooner did they reach at Neem Ka Thana Cant, at about 9:30 am, one Bus of RSRTC bearing Registration No. RJ-14-1P-7224 being driven by its driver rashly and negligently, suddenly emerged at a fast speed and hit the motor-cycle resulting into the death of Hawa Singh on the spot and injuries to Surendra Singh on his person. The FIR of this accident came to be filed at police station Neem Ka Thana and the police after completion of investigation, filed the charge- sheet before the concerned court. The claimants- respondents filed the claim petition before the Tribunal, which came to be decreed as indicated hereinabove.

2. Heard the learned counsel for the appellants and carefully scanned the

relevant material on record including the impugned judgment.

3. Learned counsel for the appellants has assailed the impugned judgment mainly on two grounds:-

(i) that the Tribunal considered Rs. 5,000/- to be the income of the deceased Hawa Singh, whereas the minimum wages at the relevant point of time was Rs. 115/- per day. The learned Tribunal sans there being any clinching evidence with regard to income of Rs. 5,000/-, arbitrarily considered the same and passed the award of Rs. 4,60,000/-, which is abysmally high in the facts and circumstances of the case; and

(ii) that one of the witnesses stated that the offending bus was of Kotputali Depot and another witness Banwari Lal stated the same to be of Sikar Depot. Thus, the contradictions emerging in the statements of these witnesses tangibly suggests that the vehicle No. RJ-14-1P-7224 was not entailed in the accident.

4. At the very outset, it is relevant to record that the police, after completion of investigation found the bus RJ-14-1P-7224 to have been involved in the accident. The ground that the bus belonged to Sikar depot or Kotputali depot is found to be flimsy in the facts and circumstances of the case. The Tribunal was expected and required to see as to whether the bus bearing the said registration number was, in fact, entailed in the accident or not? The learned Tribunal found sufficient evidence with regard to this fact and thereafter only, arrived at the conclusion that it was the bus of RSRTC bearing Registration No. RJ-14-1P- 7224, which was involved in the accident and its driver drove the vehicle rashly and negligently and caused the accident, resulting into the death of Hawa Singh on the spot. Thus, the first argument is not found to be tenable.

5. So far as the second argument with regard to the income of the deceased is concerned, it has tangibly emerged on record that the deceased had passed a diploma course in computers and was earning Rs. 15,000/- per month. In support thereof, the claimants- respondents produced the income certificate Ex.15. Despite there being ample evidence with regard to the income of Rs. 15,000/- of the deceased, the Tribunal considered only Rs. 5000/- to be his income and considering Rs. 5000/- to be the income, loss of dependency was reckoned. I do not find any perversity or caprice in the impugned order as the finding arrived at by the Tribunal is based on cogent reasoning. The impugned award, in the facts and circumstances of the case, is found to be just and proper and suffers from no infirmity. I do not find any ground to interfere with the same and in view thereof, the appeal being bereft of any substance deserves to be dismissed at the threshold.

6. For the reasons stated above, the appeal fails and the same being bereft of any merit stands dismissed in limine. Consequent upon the dismissal of the appeal, the stay application does not survive and the same also stands dismissed.