
(1985) 02 RAJ CK 0040
In the Rajasthan High Court

Rajasthan State Road Transport Corporation	APPELLANT
Vs	
Harpyari Devi and Others	RESPONDENT

Date of Decision : 02-02-1985

Acts Referred:

Motor Vehicles Act, 1988 — Section 2(19)

Citation : (1986) 1 ACC 57

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

Bench : Single Bench

Judgement

Dinker Lal Mehta, J.—The two Claims arise out of an accident which took place on 31st March, 1969, at about 3.45 p.m. One claim has been filed by Murari Lal and another has been filed by Harpyari and others.

2. Harpyari's husband Surajbhan was travelling in bus No. 5434. The bus was proceeding from Jaipur to Bharatpur. At a distance of three miles and five farlangs, the accident took place on Jaipur and Agra Road. Bus No. RSL 5434 and RJR 2278 collided. Harpyari's husband Surajbhan died on the spot.

3. On behalf of Murari Lal an has been preferred against the award dated 31-5-1977 in claim No. 1 of 1977 (Old claim No. 30 of 1969).

4. Learned Tribunal after considering the evidence in Harpyari's case held that deceased Suraj Bhan was travelling in bus No. RSL 5434 on 31-3-1969 and was going from Jaipur to Bharatpur. Learned Tribunal also held that bus No. RSL 5434 collided with bus No. 2278, on account of rash and negligent driving of the drivers, as a result of which Surajbhan received serious injuries which proved to be fatal. Issue No. 3 was also decided. Deoki Nandan was the driver of bus No. RSL 5434.

5. After considering the rival contentions of both the parties, an award of Rs. 25,000/- was passed in favour of the legal representatives of the deceased. It was directed that half of the amount shall be paid by the Rajasthan State Road Transport Corporation and half of the amount will be paid by Murarilal. It was

further directed that the Insurance Company will pay Rs. 2,000/- and this amount should be deducted out of the amount which is payable by Murarilal. Interest at the rate of 6% was also awarded, and on account of the cost of litigation, Rs. 500/- were awarded.

6. Murarilal has preferred an appeal against the said award on the ground that he is not liable to make the payment. It was submitted that Gopal Das respondent No. 5 is the registered owner of the said vehicle No. RJR 2278.

7. Shri R.N. Munshi learned Counsel for Rajasthan State Road Transport Corporation, Jaipur, has also argued the appeal No. 49 of 1978, and submitted that it is not a case of composite negligence. He has also submitted that on compensate ground, vide order dated 19-2-1985, the matter has been settled and the directions for the payment of Rs. 11,375/- have been issued and the payment will be made within a short time. As far as the appeal of the Rajasthan State Road Transport Corporation is concerned, it does not survive because of settlement and I need not discuss the submissions made by learned Counsel for the RSRTC about the fact that there was no negligence on the part of RSRTC. Without prejudice to their right of agitating this point in the other appeal of Gomati Devi, because of the settlement, the appeal No. 49 of 1978, filed by the RSRTC is disposed off.

8. On behalf of Murarilal, it is submitted that Gopal Das was a registered owner and as such he is not liable at all. It was submitted that the driver of the bus No. RJR 2278, was not driving rashly and negligently.

9. While deciding issue No. 2, learned Tribunal has discussed the evidence in detail. It has also come on record that the driver of bus No. RJR 2278 was driving on the wrong side and was driving rashly and negligently. It will not be out of place here to mention that Jaipur-Bharatpur is a notified nationalised route and the accident has taken place on that route on which normally the bus cannot be plying. However, without taking into consideration that fact, I have gone through the evidence of PW 2 Karan Singh and PW 3 Krishan Lal. Both these witnesses have stated that both the drivers of both the vehicles were driving the buses rashly and negligently and with a very-very fast speed. DW 1 Ramjilal has tried to support the case of the driver of bus No. RSL 5434 and has submitted that the driver of bus No. RJR 2278 could control the bus and for this reason both the buses collided. I concur with the finding given by the learned Tribunal on the point of negligence.

10. The next question which remains is whether Murari Lal is liable or Gopal Das is liable for the payment of compensation. My attention has been drawn to the agreement arrived at between Murari Lal and Gopal Das marked as Ex. D-1 by the learned Counsel for Gopal Das. In para (6) of the agreement, it has been specifically mentioned that party No. 2, namely Murari Lal will look after the business and he will be the owner of vehicle. It has also been mentioned in para No. (6) that he will be entitled to use all the income and he shall also be

responsible for the payment of taxes. Para No. (6) of the agreement reads as under:

X X X X

11. In Para No. 10 of the agreement, it has also been mentioned that Murari Lal shall be responsible for all taxes and other liabilities. Para No. 10, reads as under:

X X X X

Ex. D-2 is application moved by Murari Lal before the ACTO. In this application, it has been specifically mentioned that--

X X X X

In Ex. D, 3, an application for compounding was made by Murari Lal and it has been mentioned that he is the owner of vehicle No. RJR 2278 and the vehicle is registered in the name of Gopal Das Kedar Nath and he wants to compound the cash.

12. In Ex. D 4 it has been mentioned that Murari Lal is the incharge of the vehicle.

13. There are number of other documents to show that Murari Lal was in the possession of the vehicle at the relevant time and the vehicles as plied by him for his benefit on the route. The permit and the registration of the vehicle was in the name of Gopal Das but it was handed over to Murari Lal and he was plying the Vehicle for his benefit though in the permit and in the name of Gopal Das.

14. From the evidence and documents on record, I am of the view that Murari Lal was in the possession of vehicle No. RJR 2278 and was plying the vehicle for his benefit.

15. u/s 2(19) of the Motor Vehicles Act, the definition of the word "owner" has been given, which reads as under:

"Owner" means, where the person in possession of a motor vehicle is a minor, the question of such minor, and in relation to a motor vehicle which is the subject of a hire purchase agreement, the person in possession of the vehicle under that agreement.

16. Thus under the Motor Vehicles Act, the definition of "owner" is different than that of the "owner" which is considered in the ordinary course of nature. A person who is in the possession and who is getting the benefits of the vehicle is for the purposes of Motor Vehicles Act, the owner of the vehicle. The registered owner and the "owner" cannot be equated for the purposes of the Motor Vehicles Act.

17. This Court in Automobiles Transport (Rajasthan) Pvt. Ltd. and Another Vs. Dewalal and Others, has held in para No. 13, after discussing various cases as under:

Thus, a person though registered as owner may or may not be a real owner and for the purpose of awarding compensation it is the real owner who should be found out by the Court on the facts of each case.

18. Thus, I am of the view that the learned Tribunal has correctly arrived at the finding that the real owner was Murari Lal. Apart from this, Murari Lal cannot agitate this point. The claimant may agitate this point to secure the recovery of the amount. In the instant case the claimant has not agitated this point and is satisfied with the award and is not claiming any relief against Gopal Das on the ground that he is the real owner.

19. As far as the quantum of compensation is concerned, it has not been argued before me.

20. Shri Bhargava submits that the Insurance Company has paid the amount and Gopal Das has not been held responsible so necessary orders shall be passed in favour of the Insurance Company. The Insurance Company has not filed an appeal and has also paid the amount after the decision of the Tribunal that Gopal Das is not liable and Murari Lal is the only person who is liable. The amount cannot be recovered from the claimant as it has been paid and no appeal has been filed by the Insurance Company and the decision has become final. If any right survives to get the compensation or refund from Murari Lal in any law, this Court will not pass any order. It is for the Insurance Company to consider this point and to do the needful.

21. In this facts and circumstances of the case, both the appeals are dismissed.

22. Parties in appeal No. 49 of 1978, Rajasthan State Road Transport Corporation v. Harpyari will bear the cost.

23. As far as appeal No. 94 of 1977 Murari Lal v. Harpyari is concerned, the claimants shall be entitled for a cost of Rs. 200/- from Murari Lal appellant. The interest had been awarded and the interest shall be paid to the claimant if not paid. Gopal Das shall also be entitled for the cost of Rs. 200/- from the appellant Murari Lal. The interest shall be awarded from the date of petition.