
(2013) 11 RAJ CK 0102

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 1495 of 2007

Rajasthan State Road Transport Corporation

APPELLANT

Vs

Jaituni and Others

RESPONDENT

Date of Decision : 26-11-2013

Acts Referred:

Citation : (2013) 11 RAJ CK 0102

Hon'ble Judges : Jainendra Kumar Ranka, J

Bench : Single Bench

Advocate : Virendra Agarwal, for the Appellant; Arvind Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Jainendra Kumar Ranka, J.—The instant appeal is directed against the order dated 3.2.2007 passed by the Motor Accident Claims Tribunal, Alwar in Claim Case No. 229/2005 allowing the claim petition filed by the respondents/claimants and awarded a sum of Rs. 4,38,000/- as compensation. It has been averred that the Tribunal erred in passing the claim in favour of the claimants. It is submitted by the counsel for the appellant that there is no evidence on the record to substantiate the claim that one Yunus Khan met with an accident by the vehicle owned by the appellant on 2.6.2005 and there is no involvement of the vehicle bearing Registration No. RJ-02P-0991. He further submits that merely because an FIR has been filed and a charge-sheet has been filed against the appellant viz-a-viz the driver namely Jangeer Singh does not prove that there was involvement of the appellant's vehicle. He would further submit that the Tribunal has unnecessarily relied upon the FIR as well as the charge-sheet and nothing more. It is claimed that more than 45 people were in the vehicle but none says about the incident/accident, therefore, merely on the basis of circumstantial evidence, it has been held that the incident occurred with the vehicle owned by the appellant. He further submits that in so far as matter relating to quantum of claim is concerned, the deceased was more than 35 years of age and the

multiplier applied at 17 is on the higher side. He would further contend that it has not been proved that the deceased was earning Rs. 3,000/- per month and submits that the order of the Tribunal is unjustified and deserves to be quashed and set aside.

2. Per contra, Shri Arvind Sharma, counsel for the respondents submits that it is borne out on the basis of the FIR and charge-sheet that accident took place by the vehicle owned by the appellant and no other vehicle is involved and Yunus Khan died on the spot on account of rash and negligent driving by driver Jangeer Singh, who is an employee of appellant Corporation. He would further contend that on the basis of certificate, it was proved that the deceased was earning Rs. 6000/- per month. However, the Tribunal has taken into consideration that the deceased was earning Rs. 3000/- per month, which is also at lower side. Counsel for the respondents further submits that the deceased was having licence of light motor vehicle as also having licence for heavy vehicle and it can safely be presumed that he was earning more than Rs. 3000/- and Tribunal has however come to a correct conclusion. He submitted that the order is just and proper and is not required to be interfered with.

3. I have considered the arguments advanced by the learned counsel for both the parties and perused the order impugned as well as gone through the facts narrated in the FIR and charge-sheet. In my view there is no contrary evidence so as to come to a conclusion that the accident was not on account of the vehicle owned by the appellant. The vehicle was seized on the same day and it is proved by the FIR as well as the averments made in the charge-sheet, which are Ex. 1 and 2 respectively. It is also apparent from the statements of the driver Jangeer Singh and conductor Mangal Singh. It was stated by the driver Jangeer Singh that he was driving the vehicle on that day though he denies that the accident did not occur or on account of his fault. I also notice that the driver as well the conductor did not inform to the higher authorities about the incident having taken place or not and since there was no action taken by the driver and the conductor after the incident, it certainly proves that there was involvement of the vehicle bearing No. RJ-02P-0991 and it is only on account of rash and negligent driving by the driver of the vehicle that Yunus Khan died on the spot. Accordingly, the tribunal reached to a correct conclusion that the vehicle was of the appellant and because of this vehicle the accident took place and deceased Yunus Khan died and, therefore, the said issue has rightly been decided against the appellant.

4. In so far as quantum of compensation is concerned, though it is averred that the deceased was of 33 years age, whereas the Tribunal has taken age of the deceased as 35 years. The counsel for the appellant says that once it has come on record that deceased was 35 years of age then the Tribunal has erred in applying multiplier of 17, which is on the higher side. He further submitted age 35 would go in the bracket of 35-40 years.

5. After perusing insurance certificate of deceased Yunus Khan, which is lying on record and on the basis of the said insurance, it is noticed that the date of birth

of the deceased has been shown as 1.6.1972 and the accident occurred on 2.6.2005, therefore, he was less than 35 years of age on the date of incident, rather unfortunate that he died a day later of his birth day. Therefore, in my view, the Tribunal has correctly applied the multiplier of 17 and on the basis of the said fact and in my view, the trial court has come to the correct conclusion in allowing the said amount of Rs. 4,38,000/-, which in my view is just and fair on the facts apparent on the record.

6. In view of above facts and circumstances of the case, I do not find any infirmity, illegality or perversity in the impugned order of the Tribunal and the same is upheld. The appeal being devoid of merit stands dismissed.