

(1984) 09 P&H CK 0003
In the Punjab And Haryana At Chandigarh

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

Date of Decision : 07-09-1984

Acts Referred:

Citation : (1985) 1 ACC 452 : (1985) ACJ 288

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Judgement

S.S. Sodhi, J.—Dan Bahadur Singh, Assistant Professor of Agricultural Engineering at Haryana Agricultural University, Hissar, while on his way to the Extension Farm of the University was run over and killed by a Rajasthan State Road Transport Corporation Bus. This happened at about 8.30 a.m. On September 12, 1975, near the outer Gate No. 3 of the University on the Balsmand Road.

2. It was the finding of the Tribunal that the accident here had been caused by the rash and negligent driving of the bus driver. A sum of Rs. 1,20,000/- was awarded as compensation to the claimants, they being the widow and four minor children of Dan Bahadur Singh deceased.

3. The finding of negligence recorded against the bus driver warrants no interference in appeal. The evidence on record clearly establishes that the accident took place on the left kachcha portion of the road without the deceased ever having got on to the metalled portion thereof. The metalled portion of the Balsmand road on which the bus was travelling was 22 to 25 feet wide and the kachcha berm thereof was over 8 feet wide. There is no suggestion, much less any evidence that there was any other traffic on the road when the bus going past Gate No. 3, 22 feet is more than enough space for a bus. It is apparent, therefore, that there was no obstruction to the bus staying on the metalled portion of the road and what is more had it done so, no occasion would have arisen or any accident with the motor cycle of the deceased.

4. The three eye-witnesses examined by the claimants were all natural witnesses there PW 7 Krishan Parshad and PW 9 Data Ram being the chaukidars of the two gates on the opposite sides of the road while PW 5 Chandgi Ram had a tea stall there. All these witnesses were consistent in their testimony that the bus had come on to the kachcha portion of the road on its left and then hit against the motor cycle of the deceased. The deceased, according to them had not got on to the metalled portion of the road. Seeing the bus, he had turned his motor cycle to the left when the bus came and struck against him. It has further come in evidence that there was a speed breaker near outer Gate No. 3 which lends further assurance to the speed of the motor cycle being slow at that time.

5. As regards the testimony of the bus driver RW 2 Brij Lal, it is pertinent to note that he came forth with no explanation for his not having kept the bus on the metalled portion of the road. His statement that the motor cycle had come at a fast speed and hit into the left side of the bus i.e. belied by not only the testimony of the eye-witnesses examined by the claimants but also the photographs of the scene of the occurrence taken soon after the accident. The position of the motor cycle and the bus as shown by the photographs leaves no manner of doubt that the bus was being driven at a fast speed, considering the distance at which it stopped after the accident. The motor cycle too can be seen lying on the left side of the road. These being the circumstances and such being the evidence, no exception can be taken to the finding of negligence recorded by the Tribunal.

6. Turning next to the quantum of compensation payable to the claimants, the evidence on record shows that Dan Bhadur Singh deceased was only 32 years of age at the time of the accident. His salary at that time was over Rs. 900/- per month and considering his age, he could also look to advancement in his career in the years to come. The dependents here are his father, young widow and four minor children. Keeping in view the circumstances of the claimants and the deceased in the light of the principles laid down by the Full Bench in Lachhman Singh v. Gurmit Kaur 1979 PLR 1, 16 would clearly be the appropriate multiplier to be applied and it would be a fair and just to assess the loss to the claimants at Rs. 9,000/- per annum. This would work out to Rs. 1,44,000/-.

7. The compensation payable to the claimants is accordingly hereby enhanced to Rs. 1,44,000/- which they shall be entitled to along with interest at the rate of 12 per cent per annum from the date of the application to the date of the payment of the amount awarded. Out of the amount awarded, a sum of Rs. 20,000/- (Twenty thousand) each shall be payable to the children of the deceased and the balance to his widow Kami Devi. Liability for payment of the amount awarded shall be joint and several of the State of Rajasthan, the Rajasthan State Road Transport Corporation as also the bus driver Brij Lal.

8. The appeal filed by the Rajasthan State Road Transport Corporation is accordingly hereby dismissed while the cross-objections filed by the claimants are accepted. The claimants shall be entitled to their costs in these proceedings

Counsel"s fee Rs. 300/-.