
(2015) 03 AHC CK 0092

In the Allahabad High Court

Case No : First Appeal From Order No. 329 of 1995

Rajasthan State Road Transport Corporation

APPELLANT

Vs

Ruchi Mehra and Others

RESPONDENT

Date of Decision : 10-03-2015

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2015) 3 ADJ 705 : (2015) 4 ALJ 799 : (2015) 110 ALR 671 : (2015) 3 AWC 2357

Hon'ble Judges : Arun Tandon, J; S.B. Singh, J

Bench : Division Bench

Advocate : Samir Sharma, for the Appellant; Madhav Jain, Nitin Yasharth and Yasharth, Advocates for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Sri Samir Sharma on behalf of the appellant. We have also examined the records of the First Appeal From Order. This first appeal from order under Section 173 of the Motor Vehicles Act, 1988 is directed against the judgment and order of the Motor Accident Claims Tribunal dated 26th September, 1994 passed in Motor Accident Claim Petition No. 293 of 1993.

2. The facts as disclosed from record are that on 14.2.1993 at about 7.15 p.m. one Sanjay Mehra who had been married about 13-14 days earlier was returning home on motorcycle bearing registration No. UMV-6678. At the State Bank of India, Chhipitola Tiraha, while he turning towards Collectorate, a passenger bus bearing registration No. RNP-2119 belonging to Rajasthan Roadways Transport Corporation was coming from the side of Saan-Ka-Taikya road at a high speed dashed the Motorcycle. Due to impact of the bus Sanjay Mehra sustained grievous injuries including one on the head. He succumbed to the injuries on the spot.

3. The widow of the deceased and the parents filed a petition claiming

compensation for the death of the Sanjay Mehra under Motor Vehicles Act.

The claim was contested by Rajasthan Roadways Transport Corporation. It was the case of the Transport Corporation that the accident was caused because the motorcycle being driven by Sanjay Mehra rashly and negligently. The deceased suddenly came from the back side of the bus and dashed against the same. He lost balance, his motorcycle fell at the backside of the bus. He sustained head injury. It is, therefore, contended that the incident had occurred due to rash and negligently driving by deceased Sanjay Mehra and not because of any act of negligence on the part of the driver of the bus.

4. On the basis of the pleadings, the Motor Accident Claims Tribunal framed following issue:

"(i) Whether the accident has taken place due to rash and negligently driving of the driver of the bus?

(ii) Whether the claim petition was competent?

(iii) Whether claimants are entitled any compensation and, if so, to what amount and from whom?"

5. The Motor Accident Claims Tribunal after considering the evidence brought on record specifically that of Jagannath, who was an independent eye-witness of the incident and of Jogender Singh as well as after considering the evidence of the witnesses produced by the Rajasthan Transport Corporation namely Vipin Kumar, D.W. 1 and Sardar Jogendra Singh D.W. 2 returned a finding of fact that the accident had taken place because of the rash and negligently driving of the bus.

6. The issue No. 1 was accordingly answered in his favour of the claimants. On issue No. 2, it has been recorded that nothing could be shown by the opposite party as to how the claim was incompetent as a matter of fact the respondent did not press the issue, more or less consented that the claim petition was valid.

7. So far as 3rd issue of quantum of compensation is concerned, the Motor Accident Claims Tribunal has recorded from the ledger book produced on behalf of the appellants it is established, that the deceased earned Rs. 26,000/- in the year 1990-91, Rs. 33,000/- in the year 1991-92 and Rs. 86000/- in 1992-93. The Tribunal found that the deceased had motorcycle as well as an office. On the basis of the said evidence, the tribunal has come to the conclusion that the contribution by the deceased was Rs. 3500/- per month towards the maintenance of the family i.e. Rs. 42,000/- per annum. The deceased was aged about 31 years age on the date of accident. On applying the multiplier of "16" the compensation has been calculated.

8. Counsel for the appellant challenging the findings so recorded by the Tribunal submitted before us that the deceased was driving the motorcycle rashly and negligently and therefore Motor Accident Claims Tribunal was not justified in answering the issue No. 1 in favour of the claimants. Nothing much could be

brought to our notice so as to assess the quantum of compensation awarded by the Motor Accident Claims Tribunal in the facts of the case.

9. Having examined the record of the First Appeal From Order and the record of the Court below, we find that the Motor Accident Claims Tribunal has considered the evidence of independent eye-witness as well as also the statement of witnesses D.W. 1 and D.W. 2 produced by the Transport Corporation. The Tribunal has rightly come to the conclusion that the accident had occurred due to rash and negligently driving of the bus. The Transport Corporation failed to lead any evidence in support of their plea that the deceased was driving motorcycle negligently, nothing much could be pointed out before us also from the evidence on record to take a different view.

10. In totality of the facts and pleas, we do not see any illegality in findings recorded by the Motor Accident Claims Tribunal in the matter. The accident having been caused due to rash and negligent driving of the bus by the driver of the said vehicle. The appeal lacks merit and accordingly dismissed.