
(2001) 01 DEL CK 0086
In the Delhi High Court
Case No : FAO No. 362 of 1996

Randhir Singh

APPELLANT

Vs

Roshanara and Others

RESPONDENT

Date of Decision : 03-01-2001

Acts Referred:

Citation : (2002) ACJ 1161 : (2001) 4 AD 698 : (2001) 90 DLT 304

Hon'ble Judges : S.K. Mahajan, J

Bench : Single Bench

Advocate : Pramod Kumar, for the Appellant; J.N. Aggarwal, for the Respondent

Final Decision : Allowed

Judgement

S.K. Mahajan, J.—One Ali Ramajan a child of eight years came under the wheel of the bus and died on 4.6.92. The bus at the relevant time was owned by respondent No.4 and was being driven by the appellant. Claiming compensation under the provisions of the Motor Vehicles Act, 1988, a petition was filed by the legal heirs of the deceased and by the impugned Award the Tribunal while holding that the accident was caused due to the rash and negligent driving of the driver of the buss passed an Award of Rs. 50,000/- in favor of the claimant and against the driver and the owner of the bus. The learned Tribunal further directed the driver to pay 40% of the awarded amount and the balance amount was directed to be payable by the DTC. Being aggrieved by that part of the Award whereby the Tribunal had directed the driver to pay 40% of the awarded amount the present appeal was filed by the driver of the bus.

2. It is contended that the appellant at the relevant time was driving the bus during the course of his employment and he, Therefore, cannot be held liable to pay any part of the amount awarded in favor of the claimants by the Tribunal. Reliance for this has been placed on the judgment of State of Maharashtra v. Kanchan Mala Vijay Singh Sheikh, 1 (1996) ACC 109 (SC).

3. I have gone through the impugned Award and have also heard learned

Counsel for the parties. Int he impugned Award the Tribunal has not held as to why the driver should pay 40% of the awarded amount. There is nothing in the Award to suggest as to why the appellant was held liable to pay 40% of the amount. As held by the Supreme Court in the aforesaid case, once it is established that the negligent act of the driver was in the course of employment, the State shall be liable to make payment of the amount of compensation. It has also been held by the Allahabad High Court in UPSTRC v. Pratap Singh, 2 (1994) ACC 153 that if an accident takes place when the driver is performing his duties during the course of his employment, the Corporation is liable to pay any compensation payable on account of the said accident and the driver shall not be made liable for the same.

4. I am fully in agreement with the aforesaid judgments and in my view, since at the time of accident the appellant was driving the bus during the course of his employment with the D.T.C. he cannot be held liable for making payment of any part of the amount of the Award dated 23.8.96. This appeal is, Therefore, allowed and the Award is modified to the extent that the entire awarded compensation shall be paid by the DTC and no part of the same shall be payable by the appellant. In the circumstances of the case, however, the parties are left to bear their own costs.

5. Appeal allowed.