

(2006) 10 BOM CK 0004
In the Bombay High Court
Case No : First Appeal No. 461 of 1991

Subhash Gulabchand Jaju

APPELLANT

Vs

Maharashtra State Transport Corporation

RESPONDENT

Date of Decision : 03-10-2006

Acts Referred:

Motor Vehicles Act, 1988 — Section 110CC

Citation : (2007) 2 ALLMR 257 : (2007) 4 BomCR 443

Hon'ble Judges : Munshi V.G., J

Bench : Single Bench

Advocate : Netrali Jain Gangwal, Anil Kasliwal, Nikhil S. Jaju and S.B. Palod, for the Appellant; M.K. Goyanka, for the Respondent

Final Decision : Allowed

Judgement

Munshi V.G., J.—First Appeal (No. 461/ 1991) is directed by the appellant (original claimant), feeling displeased with the award passed by the Member, Motor Accident Claims Tribunal, Ahmednagar, on 4.4.1988, in M.A.C.P. No. 101/1989, whereby the claim for compensation was partly allowed, together with future interest.

2. The important facts of the claim petition may be briefly stated as under:

The appellant (original claimant), on 11.6.1983, travelled by S.T. Bus (MTF 9030) on Pune-Amalner road. The said Bus, which was driven by respondent No. 4, driver, met with an accident. Number of occupants of the Bus did sustain fatal injuries and, succumbed to fatal injuries. Remaining other occupants did sustain injuries, including the appellant (claimant). Therefore, the appellant did file petition before the Tribunal for compensation.

3. The fact that, the Bus met with the accident, number of persons died in the said accident and, number of persons received injuries, etc. is not in dispute. However, the respondent (driver) denied that, the said accident occurred only because of his rash and negligent driving of the Bus. It is his defence that, the

said accident is the result of mechanical defect that arose in the engine of the Bus, at material point of time.

4. Learned Member taken the trial, heard the parties, delivered the judgment and directed respondent Nos. 1 to 3 to pay amount of Rs. 25,000/- towards amount of compensation, together with future interest, at the rate of 12 per cent per annum on the award amount.

5. The appellant (original claimant), being aggrieved by the said order, preferred appeal mainly on the grounds that, firstly, the learned Member did not properly appreciate oral and documentary evidence adduced on record and, therefore, arrived at wrong conclusion. Secondly, the learned Member should have awarded interest, pendente lite. Lastly, the order passed by the learned Member is not only contrary to the principles of law but, against the facts and circumstances brought on record.

6. The present appeal came to be filed by the appellant (claimant) because, he was not paid interest, pendente lite. It v/as argued by Mrs. Netrali Jain and Mr. Nikhil S. Jaju, learned Counsel that, in view of the provisions of Section 110-CC of the Motor Vehicles Act, when the award for compensation was passed, it was incumbent upon the Member, to award interest, for the period of petition i.e. from the date of filing of the petition, till the date of award and, in support of their contention, relied on the decision given by this Court, reported in Dnyandeo Karbhari Nagare Vs. Gitaram Shankar Wakchaure and Others, .

In the present case before us also, the learned Member refused to grant interest, pendente lite, without assigning reason. In view of the decision, referred to above, the appellant was really entitled to. get interest on the award amount, from the date of the petition, till the date of the award. In view of this legal position, it is necessary to award interest, pendente lite, at the rate of 6 per cent per annum.

To that extent, it is necessary to interfere with the finding and the order recorded by the learned Member.

First Appeal (No. 461/1991) is allowed. The judgment and order passed by the Member, Motor Accident Claims Tribunal, Ahmednagar, on 4.4.1988, in M.A.C.P. No. 101/1983, is confirmed and, now, the respondent Nos. 1 to 3, in addition, to pay the appellant interest at the rate of 6 per cent per annum, on the award amount, from the date of the petition, to the date of the award.

In appeal, parties are directed to bear their own costs.

First Appeal (No. 461/1991) is allowed accordingly.