
(2009) 08 MP CK 0035
In the Madhya Pradesh High Court
Case No : First Appeal No. 82 of 1995

U.P. Sharma

APPELLANT

Vs

Jabalpur Corporation and Others

RESPONDENT

Date of Decision : 27-08-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 96
Constitution of India, 1950 — Article 21, 47
Criminal Procedure Code, 1973 (CrPC) — Section 133
Madhya Pradesh Municipal Corporation Act, 1956 — Section 123, 322, 323, 326, 66

Citation : (2010) ILR (MP) 231 : (2010) 5 MPHT 59

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Judgement

Rajendra Menon, J.—This is Plaintiff's appeal filed under Section 96 of the CPC assailing the judgment and decree dated 29-11-94, passed by the 12th Additional District Judge, Jabalpur in Civil Suit No. 94-B/94 (U.P. Sharma v. Jabalpur Corporation and Ors.).

2. It is the case of the Appellant that in the year 1982, he was posted as a Police Inspector, Incharge of Garha Police Station. In the night intervening 23/24-1-82, at about 1.30 a.m., while he was going on his motorcycle on the main road, when he reached a place near Gautamji Ki Madiya, two heaps of earth (sand) were put in a culvert on the road without any warning signal or notice, as a result Appellant ran over the mud/sand, his motorcycle skidded and he suffered serious injuries on his body. He was admitted to Medical College, Jabalpur in an unconscious state. He was treated in the Medical College from 23- 1-82 to 27-3-82. Thereafter, he was shifted to Nagpur, Bombay and Delhi where he underwent treatment. Claiming that because of the accident he had suffered serious injuries on his right hand, this right hand has become non-functional and has suffered permanent disability, suit in question was filed against the Municipal Corporation claiming compensation of Rs. 37,000/- for the negligence of the Corporation, which resulted in the accident.

3. Respondent Municipal Corporation appeared and refuted the claim of the Plaintiff and contended that the sand in question, on which the Appellant is said to have skidded along with the motorcycle, were never put by the Corporation in the said area, it was their case that no work of the Corporation was going on in the said area and the accident has got nothing to do with any activity of the Corporation. Accordingly, the claim of the Appellant was resisted.

4. In order to establish his claim, Appellant examined himself as P.W. 1 and examined two more witnesses namely : R.K. Choudhary (P.W. 2) and Shivraj Singh (P.W. 3), so also the Doctor who treated him. Even though the witnesses of the Plaintiff and the Plaintiff himself testified with regard to occurrence of the accident, the learned Court below had held that they were unable to prove that the sand in question, on the road, was placed by the Municipal Corporation or its officers. It was not established by them that the Municipal Corporation was carrying out any work in the said area.

5. On behalf of the Municipal Corporation, two witnesses namely : Suresh Kumar Chourasia (D.W. 1) and N.L. Dubey (D.W. 2) were examined and they stated before the Court that they are not aware of the accident, it has not taken place because of the negligence of the Corporation, it was stated by them that the sand in question was never placed by the Corporation, no construction activity in the area was going on. Accordingly, the Respondents tried to resist the claim of the Appellant.

6. After evaluating the totality of the circumstances, finding recorded by the Court below is that even though the accident had taken place in the manner as narrated by the Appellant, but accident due to the negligence of the Municipal Corporation is not proved and the suit has been dismissed. Assailing the aforesaid, this appeal has been filed.

7. Shri Kishore Shrivastava, learned Counsel for the Appellant, taking me through the statement of Plaintiff himself, recorded as P.W. 1 and that of his witnesses Shri R.K. Choudhary (P.W. 2) and Shri Shiv Raj Singh (P.W. 3) argued that from the statement of these witnesses occurrence of the accident in the manner as indicated by the Plaintiff is proved and in Para 14 of the impugned judgment finding recorded while answering issue No. 2 is to the effect that accident is proved. Shri Kishore Shrivastava submitted that the suit is dismissed only on the ground that the Plaintiff has failed to establish the fact that the sand in question, on the road, was placed by the Municipal Corporation and, therefore, they are not responsible for paying damages to the Appellant. Shri Kishore Shrivastava, learned Senior Counsel by taking me through the cross-examination of these witnesses and the statements of Defendants' witness No. 1 Shri Suresh Kumar Chourasiya (D.W. 1) and L.N. Dubey (D.W. 2) submitted that if the statement of these witnesses are scanned and the suggestion to Defendants' witnesses in cross-examination by the Municipal Corporation are also scrutinised, it would be seen that the Municipal Corporation has not denied putting up of the obstruction completely, but the suggestion was that the

obstruction was put in such a manner that sufficient space was available for the Plaintiff to move freely on the road. Shri Kishore Shrivastava emphasized that the evidence available on record and the sand of the Municipal Corporation suggest that it was their case that some work was going on about a kilometer or about half kilometer away from the place where accident took place, it is stated that Defendants do not denying completely that no work was going on, Shri Kishore Shrivastava submitted that if the entire evidence is scrutinized the contention of the Plaintiff that the material was put by the Municipal Corporation cannot be ruled out, however, he argued that even if it is assumed that the Municipal Corporation had not put the sand in the place as indicated hereinabove, but the fact about availability of the sand in a public road was apparent from the face of record and when the Municipal Corporation, a creation of the statute, i.e., Municipal Corporation Act, 1956 is required to discharge its function in such a way so as to protect public safely and if the negligence of the Defendants in not removing obstructions in the road results in an accident causing injuries to a member of the general public, it will give rise to a claim for damages under the law of tort and Municipal Corporation cannot wriggle out of liability to pay compensation, in case it is found that obstruction was created on a public way in such a manner that it resulted in the accident, Shri Kishore Shrivastava argued that even if the Plaintiff has failed to prove that the sand in question was placed by the Municipal Corporation, the availability of the material in the road in the manner that an obstruction is created, the same is enough to claim damages under the general Law of Tort, as it is a statutory duty of the Municipal Corporation to keep the public way and road in such a manner that it is safe for use by the public without any obstruction.

8. Placing reliance on a judgment of Supreme Court in the case of Jay Laxmi Salt Works (P) Ltd. Vs. State of Gujarat, , and judgment rendered by Division Bench of this Court in the case of State of M.P. v. Ganpat Ghunnilal and Ors. 1968 MPI J 533, Shri Kishore Shrivastava argued that in this case as negligence on the part of Municipal Corporation in maintaining the public way is established and, therefore, the liability under the general Law of Tort can be imposed upon Municipal Corporation, as they have failed to discharge their statutory duties. Referring to observations made by Supreme Court in Paras 8 and 9 in Jay Laxmi Salt Works (P) Ltd. (supra), Shri Kishore Shrivastava, learned Senior Counsel emphasized that if damages are caused to a person because of some negligence on the part of the State or its organ in the matter of maintaining essential functions and duties statutorily imposed under law then the State or its authorities are responsible to make good the loss caused to the person concerned under the Law of Tort. Accordingly, Shri Kishore Shrivastava as an alternate submission argued that once the accident is held to be proved and when it is established that sand was lying on the public road maintained by Municipal Corporation, resulting in the accident, then as the Municipal Corporation has failed to discharge statutory duty imposed upon it in the matter of maintaining roads in a proper manner, keeping in view the safety of the

general public using it, a claim against the Municipal Corporation is maintainable and if the matter is analysed in the aforesaid background, Shri Kishore Shrivastava argued that it is a fit case where the suit should be decreed and damages granted.

9. That apart, taking me through the finding recorded by learned Court below with regard to issue Nos. 3 to 6 Shri Shrivastava argued that as the claim made by the Appellant with regard to the accident and damages caused are proved and, therefore, the said amount should be granted as there is no counter appeal or cross-objection from the Respondents.

10. Even though the matter is listed continuously for the last 1 week and the appeal is more than 14 years old, none is appearing for the Municipal Corporation in spite of the fact that they are represented by Counsel.

11. Facts that have come on record clearly indicates that Plaintiff suffered the injury in the accident that had taken place on 23-1-82 in the manner as narrated by Plaintiff in the plaint. The finding recorded by the Trial Court as contained in Para 14 clearly indicates that the Trial Court has held the accident to have been proved, but the suit is dismissed only on the ground that the Plaintiff has failed to prove negligence on the part of Municipal Corporation in as much as there is no material to show that the sand in question on the road was placed by the Municipal Corporation.

12. From the statements made by Shri Kishore Shrivastava, learned Senior Advocate, it would be seen that he had made a two fold submission; the first limb of his argument was that the evidence available on record if scanned would indicate that Plaintiff has proved putting up of the material in the public way as alleged in the plaint.

13. Plaintiff himself was examined as P.W. 1 and his witness R.K. Choudhary (P.W. 2), Shiv Raj Singh (P.W. 3), who were residing in the vicinity have testified to the effect that the material in question was put by the Municipal Corporation and certain work with regard to construction of a small culvert was going on in a place, which was between 1 or 1/2 kilometer away from the place of accident. Work of the culvert being going on is admitted by the witness for Defendants namely, Suresh Kumar Chourasiya (D.W. 1) and L.N. Dubey (D.W. 2), however, learned Court has rejected the claim of the Plaintiff only on the ground that there was no work of the Municipal Corporation going on in the place of the accident and, therefore, the Plaintiff has failed to prove that the sand lying on the road was being used by the Municipal Corporation or for some work on their behalf, this finding of learned Court below is wholly perverse. Shri R.K. Choudhary (P.W. 2) and Shiv Raj Singh (P.W. 3) in their evidence and in cross-examination even though say that no work was going on in the spot where the sand was lying, but they admit that some work with regard to construction of a culvert was going on about 1 to 1/2 km away. That apart the suggestions put to the witness by the Counsel for Municipal Corporation in cross-examination are only to the effect that

no work was going on in the spot where the accident took place, there is nothing to show that for the work going on about A km to 1 km away the sand was not being used. However, after evaluating the submission made by Shri Kishore Shrivastava, learned Senior Advocate and on analysis of the evidence that has come on record there is much force in the contention of Shri Kishore Shrivastava to the effect that the Corporation admit the accident, the fact of sand lying in the area and their suggestion to the witnesses does indicate that there was ample space for the Appellant to move by avoiding the obstruction. If this aspect of the matter is taken note of in the light of the principle laid down in the case of Jay Laxmi Salt Works (P) Ltd. (supra), and applied it would make the Corporation liable for negligence, if there statutory duty in maintaining the road in a safe condition are taking note of. That being so, this Court deems it appropriate at this stage to evaluate the second contention raised by Shri Kishore Shrivastava and to determine the liability of the Municipal Corporation in the matter of discharging their statutory duty.

14. Section 66 of the M.P. Municipal Corporation Act, 1956 contemplates matters to be provided for by the Corporation Sub-clause (a), (b) and (f) of Sub-section (1) of Section 66 casts a duty on the Municipal Corporation to provide proper facility for lighting public streets, public places and buildings and keep the street in a clean and healthy condition, so also it imposes a duty upon them to remove obstruction and projections in public streets, if breach of duty this result in damage to a member of pubic at large the same would attract liability under the general Law of Tort against the Municipal Corporation. In the case of Jay Laxmi Salt Works (P) Ltd. (supra), various presumption with regard to liability under the Law of Tort are considered and it is held by the Supreme Court that if injury or harm is caused to a person either intentionally or innocently due to negligence on the part of State or its organ the liability of the State in a Welfare Society cannot be ruled out. In the said case, certain damages were caused due to construction activities being carried out by the State and loss was caused due to negligence in the said activities, while dealing with the question of awarding damage to a citizen, who had suffered injuries because of the negligence of the State in the matter of carrying out construction activities the principle of tort and the question of liability of the State and its organ has been dealt with by the Supreme Court in Paras 8 and 9 in the following manner:

Truly speaking entire Law of Torts is founded and structured on morality that no one has a right to injure or harm others intentionally or even innocently. Therefore, it would be primitive to class strictly or close finality (sic : finally) the ever-expanding and growing horizon of tortious liability. Even for social development, orderly growth of the society and cultural refineness, the liberal approach to tortious liability by Courts is more conducive.

(9) In between strict liability and fault liability there may be numerous circumstances in which one may be entitled to sue for damages. And it may be partly one or the other or may be both. In a Welfare Society construction of dam

or bundh for the sake of community is essential function and use of land or accumulation of water for the benefit of society cannot be non- natural user. But that cannot absolve the State from its duty of being responsible to its citizens for such violations as are actionable and result in damage, loss or injury. What is fundamental is injury and not the manner in which it has been caused. "Strict liability", "absolute liability", "fault liability" and "neighbour proximity" are all refinements and development of law by English Courts for the benefit of society and the common man. Once the occasion for loss or damage is failure of duty, general or specific, the cause of action under tort arises. It may be due to negligence, nuisance, trespass, inevitable mistake etc. It may be even otherwise. In a developed or developing society the concept of duty keeps on changing and may extend to even such matters as was highlighted in *Donoghue v. Stevenson*, where a manufacturer was held responsible for injury to a consumer. They may individually or even collectively give rise to tortious liability. Since the Appellant suffered loss on facts found due to action of Respondent's officers both at the stage of construction and failure to take steps even at the last moment it was liable to be compensated.

(Emphasis supplied)

15. Apart from the aforesaid case Supreme Court in the case of *Rajkot Municipal Corporation Vs. Manjulben Jayantilal Nakum and Others*, , has observed as under:

When a person uses a road or highway, under common law one has a right to passage over the public way. When the Defendant creates by positive action any danger and no signal or warnings are given and consequently damage is done, the proximate relationship gets established between the Plaintiff and the Defendant and the causation is not too remote. Equally, when the Defendant omits to perform a particular duty enjoined by the statute or does that duty carelessly, there is proximity between the Plaintiff-injured person and the Defendant in performance of the duty and when injury occurs or damage is suffered to person or property, cause of action arises to enable the Plaintiff to claim damages from the Defendant. But when the causation is too remote, it is difficult to anticipate with any reasonable certainty as ordinary reasonable prudent man, to foresee damage or injury to the Plaintiff due to causation or omission on the part of the Defendant in the performance or negligence in the performance of the duty. (Para 61)

(Emphasis supplied)

When the Defendant was not in know of the discoverable defect or danger and it caused the damage by accident like sudden fall of the tree, it would be difficult to visualise that the Defendant had knowledge of the danger and he omitted to perform the duty of care to prevent its fault. There would be no special relationship between the Statutory Authority and the Plaintiff who is a remote user of the footpath or the street by the side of which the trees were planted, unless the Defendant is aware of the condition of the tree that it is likely to fall

on the footpath on which the Plaintiff/class of persons to which he belongs frequents it. The Defendant by his non-feasance is not responsible for the accident or cause of the death since admittedly there was no visible sign that the tree was affected by disease. It had fallen in a still condition of weather.

(Para 58)

Even though in the said case the Supreme Court had rejected the claim for compensation arising due to fall of tree standing by the roadside, if the observations made in Para 61 are taken note of, it would be seen that when the Statutory Authority omits the performance of particular duty enjoying from a statute or does the duty carelessly then the proximity between the injury caused to the Plaintiff and the act of the Defendants in not performing the duty are established and the cause arises to the Plaintiff enabling him to claim damages from the Defendant/authority. Subsequently in another case *The Municipal Corporation of Delhi Vs. Smt. Sushila Devi and Others*, compensation was granted for death of a person passing by the road due to fall of a branch of a tree on his head. In the said case, in Paras 8 and 14 the matter has so dealt with by the Supreme Court:

8. The Division Bench has upheld the finding recorded by the learned Trial Judge that the Horticulture Department of the Corporation should have carried out periodical inspections of the trees and should have taken safety precaution to see that the road was safe for its users and such adjoining trees as were dried and dead and/or had projecting branches which could prove to be dangerous to the passers-by were removed. This having not been done, the Municipal Corporation has been negligent in discharging such duty as is owed to the road users by the adjoining property owners, especially the Municipal Corporation. The finding has been arrived at on appreciation of evidence by the learned Trial Judge as also by the Division Bench and we find ourselves in entire agreement with the said finding.

14. In our opinion the High Court was right in holding the Municipal Corporation negligent in performing its duty under the common law and, therefore, liable in damages to the Plaintiffs for the injury caused to the deceased by fall of the branch of the tree and the consequences flowing therefrom.

16. A Division Bench of this Court in the case of *Citizen and Inhabitants of Municipal Ward No. 17, Municipal Corporation, Gwalior v. The Municipal Corporation, Gwalior and Ors.* 1992 (1) MPJR 93, has considered the question with regard to liability of the Municipal Corporation to provide facilities to the citizens and the duties imposed upon the Municipal Corporation under Chapter V and Chapter XI of the Municipal Corporation Act, 1956 and the effect of Sections 66 and 67 of the Act and its implication with regard to a right available to a citizen under Article 21 of the Constitution, in the said case the matter is so dealt with by the learned Division Bench and Justice R.C. Lahoti (as He then was) speaking for the Bench has observed as under:

The right to life enshrined in Article 21 of the Constitution of India cannot be reduced to mere animal existence. It means something much more than just physical survival. The right of life includes the right to life with human dignity - observed Their Lordships in *Francis Coralie v. Union Territory of Delhi* AIR 1981 SC 746. The widening horizons of right to live with human dignity guarantee man to live as a human being and not as an animal. The obligation of the State and its agencies/instrumentalities to ensure the fulfillment of that fundamental right, the basic human right, though projected numberless times by the Apex Court, repeatedly reflected in several pronouncements of several High Courts of this country, is yet to be seen in its right perspective and full vision. This is what is reflected by the present petition.

11. ...Enough if we refer to Part V of the Act dealing with public health, safety and convenience. Several Chapters included in that part deal with public conveniences such as municipal drains, conservancy, sanitary provisions, water supply, drainage water and water mains, public health and safety, also on restraint of infections and infectious diseases. In a nutshell, the Legislature has contemplated through these provisions almost all that would be needed to be performed by the Municipal Corporation to achieve the fulfillment of the fundamental right of dignified human living by the residents of Municipal Corporation Limits. The Corporation has been vested with powers, wide in scope and ambit, enabling the definite fulfillment of its statutory obligations. Section 66 of the Municipal Corporation Act provides for the obligatory duties of Council as distinguished with discretionary duties listed in Section 67. The resume of these provisions leaves no manner of doubt that what has been complained of by the Petitioners and what they expected to be performed by the Municipal Corporation through this petition (see Paras 3 and 4 above) are ordinarily the statutory obligations of the Municipal Corporation.

(Emphasis supplied)

12. *State of M.P. and Anr. v. Umed Ram Sharma and Ors.* : AIR 1986 SC 847, was a case where the residents of hilly area wanted existence of roads in reasonable conditions, the right was embraced into their right to life in context of the constitutional provisions. Their Lordships interpreted Article 21 as embracing not only physical existence of life but the quality of life. Their Lordships accepted it as a proposition well settled for residents of hilly areas that access to road is access to life itself. Their Lordships further observed:

Accordingly, there should be road for communication in reasonable conditions in view of our Constitutional imperatives and denial of that right would be denial of the life as understood in its richness and fulness by the ambit of the Constitution.

13. In *Vikram Deo Singh Tomar Vs. State of Bihar*, , Their Lordships said:

We live in an age which recognizes that every person is entitled to a quality of life consistent with his human personality. Their right to live with human dignity is the fundamental right of every Indian citizen.

Thereafter the judgment of the Supreme Court in the case of Municipal Council, Ratlam Vs. Vardichan and Others, , is taken note of and the observations made by the Supreme Court are considered, which again reads as under:

15. We are reminded of the land mark decision of the Apex Court in Municipal Corporation, Ratlam v. Vordhichand AIR 1990 SC 1622. An Executive Magistrate acting u/s 133, Code of Criminal Procedure took care of serious nuisance posed to public health by issuing directions for the enforcement of the duties of the Council. With zig-zag, orders, at the ladder of superior jurisdictions, the matter reached the Apex Court. Having referred to the duties of the Municipal Council statutorily contemplated, Their Lordships observed:

The statutory setting being thus plain, the Municipality cannot extricate itself from its responsibility. Its plea is not that the facts are wrong but that the law is not right because the Municipal funds being insufficient it cannot carry out the duties u/s 123 of the Act. This "alibi" made us issue notice to the State which is now represented by Counsel, Shri Gambhir, before us. The plea of the Municipality that notwithstanding the public nuisance financial inability validly exonerates it from statutory liability has no juridical basis. The Code of Criminal Procedure operates against statutory bodies and others regardless of the cash in their coffers, even as human rights under Part III of the Constitution have to be respected by the State regardless of budgetary provision. Likewise, Section 123 of the Act has no saving clause when the Municipal Council is penniless. Otherwise, a profligate statutory body or pachydermic Governmental agency may legally defy duties under the law by urging in self-defence a self-created bankruptcy or perverted expenditure budget. That cannot be.

Their Lordships completely repelled the defence of paucity of funds, issuing certain directions to make the compliance with the orders workable by mandating the Corporation and its authorities to carry out all the direction which were not merely the right of a private individual but the health, safety and convenience of the public at large. Their Lordships made the following further observations also:

We are sure that the State Government will make available by way of loans or grants sufficient financial aid to the Ratlam Municipality to enable it to fulfil its obligations under this order. The State will realise that Article 47 makes it a paramount principle of governance that steps are taken "for the improvement of public health as amongst its primary duties". The Municipality also will slim its budget on low priority items and elitist projects to use the savings on sanitation and public health.

17. From the aforesaid principle, it is clear that the Municipal Corporation cannot absolve from its duty of being responsible to its citizens, in case of violation, which results in damage loss or injury to a citizen if the occurrence for the loss or damage is failure of duty general or specific in nature imposed upon the Municipal Corporation.

18. In the present case, if the facts available are scrutinized. In the back drop of the aforesaid principle laid down by the Supreme Court and this Court it would be seen that in the present case certain sand were lying on a public road and maintenance of the public road, in a condition suitable for safe transport or use by public is the statutory duty of the Municipal Corporation. Even if for a moment it is assumed that sand said lying on the road was not put by Municipal Corporation or was not being used by Municipal Corporation in connection with any work being carried out by Municipal Corporation, the fact that the sand was lying on a public street being used by the public at large is evident from the fact that has come on record, that being so, it was the duty of the Municipal Corporation to ensure that obstructions and other hindrance in the safe passage on public street is removed, if the sand was lying on the road and if the officers and authorities of the Municipal Corporation have failed to remove them, then it is an act of negligence, breach of duty or fault on the part of the officers of the Municipal Corporation, in not maintaining the road in such a condition that it is safe for the general public to move on it. The provisions of Section 322 of M.P. Municipal Corporation Act mandates that no person should creating obstruction in the street without written permission of the Commissioner, punishments are prescribed in case obstructions are created in the street by virtue of powers vested on the Municipal Commissioner under Sections 322, 323 and 326. It is, therefore, clear that the statute imposes a statutory duty on the Municipal Corporation and provide for imposing penalty on a person, who commits breach of the provision.

19. In the present case, the Municipal Corporation having failed to discharge its duty in maintaining property the road in a safe condition and due to use of the same when Plaintiff had suffered the accident/injuries this Court is of the considered view that Municipal Corporation is responsible to pay compensation for the loss or damage suffered by the Plaintiff, as the accident arose due to failure on the part of the Municipal Corporation in discharging its general and specific duty with regard to maintaining roads and other places of public use in a safe condition, without their being any hindrance or obstruction.

20. That being so this Court find much force in the contention advance by Shri Kishore Shrivastava to the effect that the Plaintiff has proved negligence on the part of Municipal Corporation in not maintaining a public road in its proper condition, resulting in damage to the Plaintiff.

21. Accordingly, in the light of the principles laid down in the cases referred to hereinabove and after evaluating the same and applying it in the facts and circumstances of the present case, it has to be held that Respondent Municipal Corporation has failed to discharge its duty and had been negligence in performing the duties, which has resulted in the accident, which consequentially caused loss and damages to the Plaintiff, accordingly, Plaintiff is entitled to compensation for loss and injuries suffered by him and in dismissing the suit, it is the considered view of this Court that Court below has committed error which

requires correction now in this appeal.

22. Having held so, the next question would be as to quantification of the compensation to be awarded to the Plaintiff ? From the facts that have come on record it is seen that Plaintiff has quantified his claim at Rs. 37,000/- for various heads, while evaluating the evidence and while considering the loss caused to the Plaintiff and while dealing with issue Nos. 5 and 6 learned Court has recorded a finding that Plaintiff has proved loss and damage in the accident as claimed by him. However, grant of decree is rejected only on the ground that Plaintiff has failed to prove liability for paying the aforesaid damage on the Municipal Corporation, once the damage caused and the loss suffered by the Plaintiff is quantified in accordance to the pleadings and material available on record then this Court is of the considered view that the said amount has to be allowed.

23. Accordingly, this appeal is allowed the suit in question is decreed and it is held that Plaintiff is entitled to a sum of Rs. 37,000/- being the amount of loss and damage caused to him because of accident. The Municipal Corporation is further liable to pay interest on the aforesaid amount of Rs. 37,000/-. Interest @ 6% p. a. shall be paid from the date of filing of the suit till 31-12-05 and interest @ 8% p.a. with effect from 1-1-06 till actual payment of the aforesaid amount.

24. The appeal stands decreed with the aforesaid along with cost as may be certified.