
(2009) 02 DEL CK 0236

In the Delhi High Court

Case No : MAC. APP. No. 271 of 2008

U.P. State Road Transport Corporation and Others

APPELLANT

Vs

Sh. Rajesh Kumar and Others

RESPONDENT

Date of Decision : 06-02-2009

Acts Referred:

Citation : (2009) 02 DEL CK 0236

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : S.K. Srivastava, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

J.R. Midha, J.

MAC.APP. No. 271/2008

1. On 30th October, 2005 at about 7.00 PM, respondent No. 2 along with his mother, late Smt. Nirmala Devi and sister-in-law were walking on the road in front of entrance gate of ISBT, Anand Vihar for taking a bus for Khurja. UP Roadways bus bearing No. UP-14-D-3915 was ready for departure for Khurja. Late Smt. Nirmala Devi was in the process of getting in the bus when the bus suddenly started, due to which Nirmala Devi was crushed under the rear wheel of the bus. She was taken to GTB Hospital where she died. The children of the deceased, namely, respondents No. 1 and 2 filed the claim petition before the learned Tribunal claiming compensation of Rs. 7 lacs.

2. The deceased was aged 58 years at the time of her death. She was a housewife but was doing some stitching work and used to earn Rs. 3,000/- per month. The learned Tribunal awarded compensation on the basis of minimum wages for unskilled person at Rs. 3165.90 per month. After deducting the 1/3 towards the personal expenses of the deceased, the learned Tribunal applied the multiplier of 8 and added Rs. 2,000/- towards funeral expenses and Rs. 2,500/-

for loss of estate. Total compensation of Rs. 2,07,118/- was awarded to respondents No. 1 and 2.

3. The appellant has challenged the impugned award firstly on the ground that the driver of the bus was not negligent, rather the deceased herself was negligent, secondly that the amount awarded is excessive and thirdly, the rate of interest of 7% is also excessive.

4. The learned Tribunal has given finding of negligence of the driver on the basis of the testimony of PW-1 who deposed that he was waiting along with his mother and sister-in-law for bus when the offending bus came and was ready for departure. PW-1 further deposed that when the mother was in the process to board the bus, the driver drove the bus negligently and recklessly, as a result of which the deceased fell down and came under the rear wheel of the bus. The driver of the bus appeared in the witness box as R1W1 and stated that the bus was standing on the red light and he moved the bus when the light turned green and he heard the noise from the rear gate side and stopped the bus and saw that an old lady has got some injuries. However, in cross-examination he admitted that there were rear view mirrors on both sides of the bus. He further admitted that he had seen the rear mirror and no passenger was boarding the bus. If he had seen the rear mirror, he could have avoided the accident and the mishap would not have happened. The learned Tribunal gave a finding of the negligence by the bus driver because the driver of the bus was apparently negligent. I agree with the findings of the learned Tribunal that the driver of the offending bus was rash and negligent.

5. I also agree with the computation of the compensation by the learned Tribunal on the basis of the minimum wages for unskilled person. There is no infirmity in the computation of income. The interest at the rate of 7% per annum is also fair and reasonable. Rather the Apex Court has awarded interest at the rate of 7.5 in the recent case of Dharmpal and Ors. v. U.P. State Road Transport Corporation III 2008 ACC 1 SC.

6. There is no merit in this appeal, which is dismissed.

CMs No. 6179/2008 and 6180/2008

For the reasons stated in the application, the delay in filing and refiling of this appeal is condoned.

CM No. 6178/2008

Dismissed.