

(2006) 03 AHC CK 0242
In the Allahabad High Court

U.P. State Road Transport Corporation	APPELLANT
Vs	
Mahboob and Others	RESPONDENT

Date of Decision : 30-03-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 279, 337, 338

Citation : (2007) 2 ACC 513

Hon'ble Judges : S.S. Kulshrestha, J

Bench : Single Bench

Judgement

S.S. Kulshrestha, J.—Heard the learned Counsel for the parties and also perused the materials on record.

2. This appeal u/s 173 of the Motor Vehicles Act, 1988 (in short "the Act") has been brought against the judgment and order dated 15th December, 2005 passed by the learned Sessions Judge, Fast Track Court No. 3/Motor Accident Claims Tribunal (in short "the Tribunal"), Meerut whereby awarding Rs. 15,000 as compensation for the injuries sustained by Mr. Mehboob, the petitioner No. 1. It is said that the learned Tribunal has not correctly appreciated the materials on record. It is a case of a head-on collision between the Bus No. 15-D/1735, attached with UPSRTC under contract, and another UPSRTC Bus and so the liability between the vehicles ought to have been apportioned in the ratio of 50:50. The learned Trial Court committed error while isolating the liability against the appellant alone. It is also said that the amount of compensation could be given according to the medical bills submitted by the claimant petitioner. In order to facilitate the disposal of this appeal a brief resume of the facts may be made.

3. The claimant petitioner, 29 years of age, was travelling in UPSRTC bus on 13th March, 2000 when the bus reached near to Motha it met with an accident with Bus No. 15-D/1735. There was head-on collision and its impact was so heavy that six persons including drivers of the two vehicles died at the spot and the claimant petitioner sustained injuries. The vehicle in question caught fire. Report of this accident was registered at Case Crime No. 54 of 2000, under Sections

279, 337, 338, 427 and 394A, IPC. Police Station Muradnagar, District Ghaziabad. It is contended by the claimant that he was hospitalized in M.M.G. Hospital and then shifted to Sarvoday Nursing Home where he was treated by Dr. Praveen Modi. This application was resisted by the UPSRTC that the accident had taken on account of rash and negligent driving of UP-15D/1735, which was attached with the UPSRTC. So far as the Bus No. UP-15D/0167 is concerned, its driver was driving it very slowly and with all precautions and the accident had taken place because of the negligence of the driver of the other vehicle. This application was resisted by the driver of the vehicle UP-15D/1735 on the ground that all precautions were taken by him and for that reason he cannot be held responsible for the accident. The learned Tribunal after taking into consideration the evidence adduced by the parties held the accident occurred due to the rash and negligent driving of the driver of bus UP-15D/0167 and in that bus the appellant was travelling. He sustained serious injuries. Looking to the earning of the claimant and expenses on treatment the claimant was made entitled to get Rs. 10,000 towards medical expenses and loss of earning and Rs. 5,000 for pain and sufferings.

4. From the evidence on record, it is clear that the vehicle No. UP-15D/0167 was driven rashly and negligently by the driver and the responsibility of negligent and rash driving cannot be fastened on the driver of the other vehicle. He also lost control of the vehicle when the driver of Bus No. UP-15 D-8167 came from the other direction. He ought to have seen that this could involve the Bus in an accident with the Bus coming from the opposite direction. He appears to have thrown all caution to the winds and met with an accident, there can be no justification for blaming the driver of the vehicle, who took care to swerve the vehicle, as would be evident from the site plan prepared in the course of investigation by the police. The driver of the Bus No. UP-15D-0167 was wholly responsible for the accident and there was no negligence on the part of the driver of Bus No. UP-15D/1735. The entire compensation has, therefore, to be borne out by the owner of the Bus No. UP-15D/1067, as was held by the learned Tribunal. However, from the side of appellant, reliance has also been placed on the principles of law enunciated in the case of Smt. Indrani Raja Durai and Ors. v. Madras Motors & General Insurance Co. and Ors. I (1996) ACC 335 (SC) : 1996 (2) TAC 77 SC wherein the responsibility for making the payment of compensation was shared between the two vehicles in which the motorcycle of the victim was kicked. The facts of this case are altogether different.

5. As regards the determination of compensation of amount is concerned, there is sufficient evidence on record that the claimant was at the relevant time earning Rs. 3,000 per month and for that Rs. 10,000 towards medical expenses and loss of earning were granted and Rs. 5,000 for pain and sufferings. In Union of India v. P.S. Malhai 1976 ACJ 146 quoted in Mohinder Singh Sohal and Another Vs. Ramesh Kumar and Others, Rs. 30,000 awarded by the Tribunal were enhanced to Rs. 40,000 by the High Court. In this case the injuries sustained by the claimant were substantially serious and pain and sufferings too have been

considerably more. Rs. 6,200 were spent by the claimant on his medical treatment. The amount of Rs. 15,000 in the present case for medical treatment, loss of earning, pain and sufferings would meet the ends of justice. In the given circumstances, I do not find any illegality and impropriety in the impugned order of the Tribunal. The appeal is accordingly dismissed. The amount already deposited here in the Registry of the Court may be remitted to the Tribunal.