
(2010) 08 AHC CK 0038
In the Allahabad High Court
Case No : F.A.F.O. No. 446 of 2003

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

Date of Decision : 03-08-2010

Acts Referred:

Citation : (2010) 5 AWC 4983

Hon'ble Judges : Devi Prasad Singh, J; Anil Kumar, J

Bench : Division Bench

Advocate : D.K. Srivastava, for the Appellant; Deepak Kumar Agarwal and D.K. Agarwal, for the Respondent

Final Decision : Dismissed

Judgement

Devi Prasad Singh and Anil Kumar, JJ.—Heard Sri D.K. Srivastava, learned Counsel for the Appellant and Sri Deepak Kumar Agarwal, learned Counsel present for private Respondent.

2. The present appeal has been filed against the impugned award dated 25th of September, 2002, passed by Motor Accidents Claims Tribunal, Rae-Bareilly in Motor Accident Case No. 66 of 2000.

3. On 18th November, 1999 at about 9.00 a.m. the husband of claimant Ganpat Singh keeping himself on left side of the road of Gurubuxganj Bachchwara road near nala Bridge was hit by the bus of Appellant bearing No. U.P. 78B/8195 driven rashly and negligently, in consequence thereof Sri Ganpat Singh succumbed to injury in District Hospital Rae-Bareilly. At the time of death, the age of deceased was 55 years and was an employee of Chauhan Fuels Petrol Pump, Gurubuxganj, Rae-Bareilly holding the post of Manager with monthly salary of Rs. 4,000. F.I.R. was lodged and claimants who are the wife, sons and daughters of the deceased approached the Tribunal for payment of compensation to the tune of Rs. 5,27,000. It is admitted fact that police has submitted charge-sheet against the driver of the bus bearing No. U.P. 78B-8195 belonging to the

Appellant.

4. The Tribunal has framed the issue with regard to accident occurred on 18.11.1999 at about 9.00 a.m. in the morning and payment of compensation.

5. Before the Tribunal Shiv Pratap Singh. Hridaya Pratap Singh, Jitendra Bahadur Singh, Atul Kumar Gupta appeared as witnesses.

6. Shiv Kumar Singh is alleged to be eye-witness of the accident occurred on 18.11.1999 at about 9.00 a.m. when his father Ganpat Singh was going to the house on cycle. The bus bearing No. U.P. 78B-8195 driven rashly and negligently collided with his father causing serious injuries who later on succumbed to injuries in the hospital. However, during cross-examination, Shiv Pratap Singh stated that he has not seen the occurrence and he was told by a passerby that accident was caused by the bus in question.

7. There are two other witnesses A.W. 2 Hridya Pratap Singh and A.W. 4 Atul Kumar Gupta who seems to be eye-witness and narrated the accident In verbatim stating that the accident was caused by the bus of the Appellant. Atul Kumar Gupta stated that he was going to Lucknow in the same bus which caused the accident near Gari Dula Rai nala.

8. The witness produced before the Tribunal proves beyond doubt that the accident was caused by the bus in question which belongs to Appellant.

9. However, the Appellant had taken a plea before the Tribunal that on the aforesaid date time no accident was caused by the bus in question. One Om Shankar Dixit appeared on behalf of the Appellant admitted that on 18.11.1999 he was the driver of Bus No. U.P. 78B-8195. He also-admitted that route of the bus was from Fatehpur to Lucknow and Lucknow to Kanpur and back from Kanpur to Fatehpur but he stated that no accident took place at Gurubuxganj from his bus. The counsel for the Appellant has relied upon the statement of Om Shankar Dixit. The scrutiny of submission of Om Shankar Dixit reveals that he was driving the bus in question on the aforesaid date. The route of the bus passes through Gurubuxganj. He also admitted that arrival time of the bus at Lucknow was 11.30 a.m.

10. From submission given by Om Shankar Dixit it may be inferred the bus was at the scene of the occurrence at the time when the accident occurred. The submission of Appellant's counsel that the bus was not involved, seems to be not correct. The burden was on the Appellant to establish that the bus in question was not involved in the accident. The overwhelming evidence on record establishes that the accident occurred by the bus of the Appellant.

11. The finding of Tribunal with regard to accident in question does not suffer from any perversity or illegality. The compensation awarded by the Tribunal is also reasonable and not excessive.

12. In view of above, appeal is devoid of merit. Dismissed.

13. Let entire amount, in case already not deposited be deposited before the Tribunal forthwith, say within a period of two months from the date of receipt of a certified copy of this order. Amount deposited in this Court shall be remitted to the Tribunal by the Registry forthwith. Tribunal shall proceed in terms of award.