
(1985) 07 AHC CK 0035
In the Allahabad High Court

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

Date of Decision : 30-07-1985

Acts Referred:

Motor Vehicles Act, 1988 — Section 110D
Motor Vehicles Act, 1988 — Section 110D
Motor Vehicles Act, 1988 — Section 110D

Citation : (1986) 1 ACC 325

Hon'ble Judges : B.D. Agarwal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.D. Agarwal, J.—This appeal u/s 110-D of the Motor Vehicles Act arises against the award of the Motor Accidents Claims Tribunal (District Judge) Deoria, dated 3-3-1978.

2. The accident giving rise to these proceedings took place on June 21, 1977, at about 9.30 am. close to the intersection of village Katrari. District Deoria. Murari Yadav, aged about 16 years, used to sell milk. He used to bring milk in a can to the city for this purpose. On the relevant day he was on his bicycle as usual PW Sita Ram and PW Ram Jeet were also in his company on their cycles respectively besides Ors. They were proceeding on their left from south to the north Bus No. UTA 2887 belonging to the UP State Road Transport Corporation (for short, the Corporation) came from the western direction. Murari was crushed under the wheel thereof. His parents and grand-parents lodged the claim u/s 110-A of the Act for a sum of Rs. 60,000/-. In defence it was pleaded by the Corporation that there was no rashness or negligence on the part of Sita Ram, the driver, as alleged by the claimants and that the accident took place instead on account of lack of care observed by Murari himself. The death took place instantaneously.

3. The Tribunal has upon consideration of the evidence leached the finding that the cause of the accident was rash and negligent driving by Sita Ram, the driver,

under the employment of the Corporation and the compensation awarded to the claimants is a sum of Rs. 25,000/- besides interest at the rate of 60% per annum from the date of the order till payment. Aggrieved, the Corporation has preferred this appeal.

4. Sri S.K. Sharma, learned Counsel for the Corporation, urged in the first place that the evidence on record does not sustain the finding that there was negligence or rashness on the part of the driver, Sita Ram. Looking to the evidence, this contention cannot be accepted. PW Sita Ram and PW Ram Jeet are eye-witnesses to the occurrence. Both of them were on their respective cycles and have testified that Murari deceased was driving along with them from south to north and they were all along to their left. It has also been pointed out that Murari had covered almost half of the intersection already when the bus proceeding from the western direction dashed against them. They stated that the bus was being driven at a high speed and there was no horn blown by the bus driver. Approaching as the bus did the intersection from the western direction, it was incumbent upon the driver thereof to look for the traffic, if any, crossing the intersection. It is not whether he actually saw Murari crossing over but as to whether by way of precautionary measure he could and ought to have foreseen such a thing. As for the speed, with which the bus was being driven, it is indicated apart from the direct testimony, by the fact that it was only after some distance that the bus could stop and the driver managed to run away. The victim was knocked down by the front portion of the bus as is supported from the nature of injuries caused to him which the Tribunal has also taken into consideration. The deceased, appears from the post-mortem examination, was crushed under the wheel. The deposition of Sita Ram driver examined on behalf of the Corporation in rebuttal, cannot inspire confidence in face of the salient features which accompanied the accident. Taking, as Murari did, milk in a can weighing nearly 16 kgs. it does not appear that he may have been moving rashly and it also does not seem that in case, as Sita Ram Driver states, the bus had almost crossed the intersection, he will not have noticed the same and dashed against the hind portion on the right side of the bus.

5. The other contention of Sri Sharma is in regard to the quantum of compensation. It was argued that, according to the Tribunal, the monthly contribution by the deceased towards the family will have been Rs. 70/- per month, put annually it will come to Rs. 840/-. Learned Counsel contends that adopting the usual multiplier of 16, the amount should not exceed Rs. 10,440/- only. It is true that the grand-parents of the deceased were in advanced age at the relevant time and I am told at the bar that they are also dead. Murari was illiterate but of sound physique aged about 16. He used to work sometime as agricultural labourer and was also engaged in vending milk, as described above. At that time he was unmarried, but the possibility of his being married sometimes afterwards is not excluded. In assessing the monthly contribution at Rs. 70/- only the Tribunal overlooks that there was every reasonable possibility of the earning going up. He was selling milk in Deoria city at that time, according

to the deceased's father at Rs. 2/- per kg. With a general inflation in prices it may be easily imagined that in case Murari had continued in the occupation subsequently, he may have been in a position to earn more. In my opinion, it would be reasonable to estimate his monthly contribution at Rs. 100/-. On this rate multiplying the annual contribution by the usual multiplier of 16, the amount would be Rs. 19,200/- which may be rounded to Rs. 20,000/-. The Tribunal cannot be said to be justified in having multiplied Rs. 70/- by 44 on the basis of the estimated longevity of the victim and then arriving at the amount of compensation by making deduction at the rate of 25% for lump sum payment. Under the circumstances the appeal succeeds in part only. The award dated 3-3-1978 shall stand reduced to a sum of Rs. 20,000/- only besides interest at the rate of 6% per mensem with effect from 3-3-1978 till payment. The interim order shall stand discharged.