

(2008) 10 AHC CK 0067

In the Allahabad High Court

Case No : First Appeal From Order No. 1212 of 1993

U.P.State Road Transport Corporation

APPELLANT

Vs

Nita Mittal & Anr.

RESPONDENT

Date of Decision : 13-10-2008

Acts Referred:

Motor Vehicles Act, 1988 — Section 168

Citation : (2008) 10 AHC CK 0067

Hon'ble Judges : Prakash Krishna, J

Final Decision : Dismissed

Judgement

Prakash Krishna, J.—This is an appeal under Section 173 of the Motor Vehicles Act against the judgment and award dated 28th August, 1998 passed by the Motor Accident Claims Tribunal, Bareilly in Motor Accident Claim Case No. 146 of 1990 whereby and whereunder it has awarded a sum of Rs. 52,000 as compensation to the claimant respondent.

2. The background facts of the case may be noted in brief. A claim petition giving rise to the present appeal was filed on the allegations that on 7th December, 1989 the claimant was travelling alongwith her husband Sri Rakesh Nandan Mittal in a bus of U.R.S.R.T.C. Bearing Registration No. U.M.M. 96. The said bus was being driven rashly and negligently and dashed against a D.C.M. Toyota. There was a head on collision in between the afore stated two vehicles, with the result the claimant received grievous injuries in her two legs and on the face. She, on account of the accident, is unable to bear a normal life. She is unable to walk as also to discharge her routine duties. She is permanently crippled. The claim petition was contested by denying the allegations made therein. On the basis of the pleadings of the parties, five issues as mentioned in the order under appeal, were framed. The parties led evidence in support of their respective cases. It was found under issues No. 1 and 2 that the claimant Smt. Nita Mittal received injuries in the motor accident due to rash and negligent driving of vehicle No. U.M.M. 96 owned by U.P. State Road Transport Corporation and as a

result of the accident she has become permanently disabled due to the injuries sustained by her in the said accident. Under issue No. 3 it has been found that she was bona fide passenger in the illfated bus and had paid the fair to the Corporation. It has been further found that bones of her both the legs were fractured and her left leg was operated twice and an iron rod was inserted therein. The Tribunal after taking into consideration the purchase vouchers and the medical bills has awarded a sum of Rs. 52,000 as compensation.

3. Heard Sri Sameer Sharma, Advocate learned Counsel for the appellant. He submits that the compensation has been awarded towards higher side. It is difficult to agree with the said submission. It has been found by the Tribunal that the accident took place due to rash and negligent driving of the two vehicles. It has also been found that the claimant was travelling in the bus in question and was bona fide passenger. Her two legs were fractured. She had to undergo operation twice in the left leg, Further finding is that she has become permanently disabled person. The documents (paper Nos. 23 to 27) do corroborate the medical expenditure incurred by the claimant in respect of her treatment.

4. The fact that the bones were fractured is not seriously disputed due to presence of sufficient documentary evidence in the shape of medical report etc. Looking to the facts and circumstances of the case, that the lady claimant has become permanently disabled, the compensation awarded to her towards medical expenditure as also for pains and sufferings cannot be said to be excessive. The order of the Tribunal is well considered order and no illegality or perversity could be pointed out therein by the learned Counsel for the appellant. I find no merit in the appeal.

5. The appeal is dismissed with costs. Rs. 25,000 deposited in this Court, if not already remitted by the office, shall be sent down to the concerned Tribunal forthwith.