
(2013) 03 AHC CK 0011

In the Allahabad High Court

Case No : First Appeal from Order No. 606 of 2013

Uttar Pradesh State Road Transport Corporation

APPELLANT

Vs

Krishna Murari and Another

RESPONDENT

Date of Decision : 05-03-2013

Acts Referred:

Citation : (2013) 97 ALR 874

Hon'ble Judges : Rakesh Tiwari, J;Anil Kumar Sharma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rakesh Tiwari and Anil Kumar Sharma, JJ.—Heard Sri Dinkar Mani Tripathi, learned Counsel for the appellant, Sri Pawan Kumar for the caveator/respondent and perused the impugned award as also the papers filed alongwith the memo of appeal. Challenge in this appeal is to the award dated 5.11.2012, passed by the Motor Accident Claims Tribunal/Addl. District Judge, Court No. 1, Gorakhpur in MACP No. 190 of 2009, whereby the compensation of Rs. 4,44,800.00 had been awarded to respondent No. 1 together with simple interest at the rate of 6% per annum on account of grievous injuries/permanent disability sustained by the claimant in the instant accident.

2. It appears that on 17.11.2008 respondent No. 1 alongwith Ram Kumar as pillion rider was going on a motor cycle and when they reached in front of Belhara Hanuman temple at about 5.00 p.m. the driver of Roadways bus No. U.P. 53-AT/3656 driving the vehicle rashly and negligently came from Dumariaganj and knocked down the motor cycle of respondent No. 1, thereby he sustained grievous injuries. It was further alleged that during treatment his right leg was amputated from the knee joint. The claimant/respondent No. 1 prayed for an award of Rs. 17,85,000/-.

3. The sole contention of learned Counsel for the appellant is that the vehicle of the appellant was not involved in the accident, as the offending bus has entered

the Basti depot prior to the accident i.e., at about 3.30 p.m. Opposing the award, learned Counsel for the respondent/claimant has contended that the involvement of the appellant bus has been proved through the testimony of P.W. 1 and P.W. 2. Both P.W. 1 and P.W. 2 are injured witnesses whose presence at the scene of accident cannot be doubted. The appellant has tried to prove its contention through testimony of its driver Kalim Ullah D.W. 1 against whom the police has filed charge-sheet in the Court of Judicial Magistrate regarding instant accident. This witness has admitted that he has not brought the original record about the arrival and departure of the bus in the depot before the Tribunal. Only the photocopies 53-Ga and 54-Ga were filed before the Tribunal, which were not proved. Thus in view of the categorical statement of two injured witnesses, the unauthenticated documents as also the statement of the driver are not sufficient enough to prove that the appellant's bus was not involved in the accident. Claimant's right leg was amputated from the knee joint.

4. No other point has been argued before us.

5. In view of the above, we do not find any merit in the appeal, which is dismissed accordingly. Statutory deposit made by the appellant in this Court be remitted back to the concerned Tribunal within three weeks for adjustment.