
(2011) 12 DEL CK 0272

In the Delhi High Court

Case No : MAC APP No. 194 of 2011

Uttar Pradesh State Road Transport Corporation

APPELLANT

Vs

Ramwati and Others

RESPONDENT

Date of Decision : 19-12-2011

Acts Referred:

Citation : (2012) 2 ILR Delhi 191

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Pradeep Kumar, for the Appellant; S.N. Parashar, Advocate for Respondents No.1 to 5, for the Respondent

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—The Appellant U.P. State Road Transport Corporation challenges an award dated 05.10.2010, whereby a compensation of Rs. 8,73,952/- was granted in favour of the Respondents No.1 to 5. Deceased Bani Singh died in a motor accident which took place on 22.03.2008. He was aged 28 years. He was working with Maa Anandmai Service Station, opposite Chand Cinema, Kalyanpuri and getting a salary of Rs. 3,516/- per month as per the salary certificate Ex.PW1/2.

2. Following contentions are raised on behalf of the Appellant:-

i) There was contributory negligence on the part of the deceased Bani Singh as there was a head on collision.

ii) The amount of compensation awarded is exorbitant and excessive.

CONTENTION NO.(i)

3. The Tribunal's finding with regard to rashness and negligence on the part of Satya Prakash, the Appellant's driver is held as under:

8. The onus of this issue was upon the petitioner and they had to prove that the

deceased has suffered fatal injuries in the road side accident due to rash and negligent driving of the Respondent No.1 while driving bus No. UP 14 U 9924. To prove this issue, the petitioner has examined PW-2 who had deposed that the deceased was travelling alongwith Mahesh on motorcycle from Delhi to his native village via G.T. Road and cousin brother of the deceased was going ahead of them on motorcycle No.DL 7SAR 1976 and at about 11.30 a.m. the accident happened due to rash and negligent driving of the Respondent No.1 who was driving the vehicle at high speed and basically he deposed in terms of the petition. He further deposed that the deceased died on the spot and the driver of the offending vehicle was apprehended at the spot.

In cross-examination, he deposed that Sh. Bani Singh was about 100 meters ahead of his motorcycle. He was going on left hand side and police recorded his statement and FIR was lodged on his statement. Petitioners have also filed certified copies of the record of the criminal case against Respondent No.1, on the court file which includes copy of FIR, copy of chargesheet which is against the Respondent No.1, site plan and postmortem report. Standard of proof under Motor Vehicle Act is not akin to the CPC nor the strict rule of evidence are applicable. FIR against the Respondent No.1 & the postmortem of the deceased both are the facts which are sufficient to prove that Sh. Bani Singh died on 22.3.08 because of rash and negligent driving of the Respondent No.1. This issue is decided accordingly.

4. Apart from PW2's testimony that the offending bus was being driven in a rash and negligent manner, the certified copy of the site plan prepared in the criminal case FIR No.51/2008 Police Station Arnia, Bulandshaher was placed on record by the Respondents (Claimants). The site plan clearly shows that the offending bus went on its extreme right and hit the motor cyclist. It cannot be laid down as a general proposition of law that in the case of every head on collision, there would be contributory negligence. Driver Satya Prakash who was Respondent No.1 before the Trial Court entered the witness box as RW-1 and sworn an affidavit that the motor cyclist lost balance while overtaking another vehicle. The details of that vehicle were not given by driver Satya Prakash. His testimony is belied from the certified copy of the site plan in the criminal case which shows that the accident took place on the extreme right side of the road. It was incumbent upon the driver to explain as to how the bus reached there. Thus, the Tribunal's finding that the accident took place on account of rash or negligent driving of the offending vehicle by its driver Satya Prakash cannot be faulted.

CONTENTION NO.(ii) AMOUNT OF COMPENSATION

5. The deceased was getting a salary from Maa Anandmai Service Station, which was almost equivalent to the minimum wages. The certificate was not proved. The Tribunal made addition of 50% in the minimum wages to compute the loss of dependency. The minimum wages of an unskilled worker on 22.03.2008 were Rs. 3633/- per month. The minimum wages are revised from time to time to offset inflation as also to provide a better standard of living and to give the benefit of

the growth of G.D.P. to the less paid workers. Just within one 01 year and 08 months, the minimum wages of unskilled worker were revised to Rs. 5278/- per month which shows an increase of 45%. This Court in (i) UPSRTC v. Munni Devi, IV (2009) ACC 879; (ii) National Insurance Company Ltd. Vs. Renu Devi and Others, ; and (iii) Narinder Bishal & Anr. v. Rambir Singh & Ors. MAC APP. 1007-08/2006 decided by this Court on 20th February, 2008, made addition of 50% in the minimum wages taken for calculation for loss of dependency.

6. The overall compensation of Rs. 8,73,952/- awarded by the Tribunal cannot be said to be excessive. There is no ground to interfere with the award.

7. The appeal is devoid of any merit; the same is accordingly dismissed.