
(2009) 11 DEL CK 0004

In the Delhi High Court

Case No : MAC. APP. No. 308 of 2007

Uttaranchal Transport Corporation

APPELLANT

Vs

Manju Gupta and Others

RESPONDENT

Date of Decision : 18-11-2009

Acts Referred:

Citation : (2009) 11 DEL CK 0004

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Daleep Kumar Dhayani and Pradeep Mishra, for the Appellant; A.S. Rani, for R-1 to 4, for the Respondent

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 2,80,224/- has been awarded to respondent Nos. 1 to 4.

2. The accident dated 12th November, 2003 resulted in the death of Gaurav Gupta. The deceased was survived by his mother, two sisters and brother who filed the claim petition before the learned Tribunal.

3. The learned Counsel for the appellant has urged only one ground at the time of hearing of this appeal. The learned Counsel for the appellant submits that the driver of the offending bus was not negligent and, therefore, the appellant is not liable to pay any compensation.

4. The deceased was driving the motorcycle while going from Delhi to Mohan Nagar on 12th November, 2003. His friend Gaurav Sharma was going on another scooter. When the deceased reached Mohan Nagar, Near Maujpur check-post, Uttaranchal Roadways bus bearing No. UP-29 1199 hit the deceased's motorcycle from behind due to which the deceased fell down and suffered fatal injuries.

5. PW-3 is the eye-witness who deposed that the Uttaranchal Roadways bus hit

the deceased from behind. PW-6 further deposed that the accident occurred due to the rash and negligent driving of the offending vehicle which was being driven at a very high speed. The driver of the bus appeared as RW-1 and deposed that the motorcycle of the deceased hit the bus from behind and, therefore, he is not responsible for the accident in question.

6. The learned Tribunal believed the evidence of PW-3 and disbelieved the statement of RW-1 on the ground that RW-1 has not placed on record the mechanical inspection report to establish that the motorcycle hit the bus from rear side. The learned Tribunal has observed that as per the FIR, Ex.PW1/7, the offending bus hit the motorcycle from behind. The finding of the rash and negligent driving by the driver of the offending bus based upon the preponderance of probabilities is upheld.

7. For all the aforesaid reasons, the appeal is dismissed.

8. The appellant has deposited the entire award amount along with interest out of which 50% amount has been released to the claimants in terms of the order dated 11th October, 2007. The remaining amount has been sent to the learned Tribunal to be kept in fixed deposit.

9. The learned Counsel for claimants/respondents No. 1 to 4 submit that he has not been able to trace the payment with the learned Tribunal.

10. The learned Tribunal is directed to release the balance award amount to claimants/respondents No. 1 to 4 in terms of the award without any restriction of fixed deposit.

11. The statutory amount of Rs. 25,000/- deposited by the appellant be refunded back to the appellants.

12. Copy of this order be given "Dasti" to learned Counsel for both the parties under signature of Court Master.