

(1993) 09 BOM CK 0014
In the Bombay High Court

Vasant Namdeo Baste and Others

APPELLANT

Vs

Madhukar Trimbak Suryawanshi

RESPONDENT

Date of Decision : 21-09-1993

Acts Referred:

Citation : (1994) 1 ACC 400

Hon'ble Judges : M.K. Mukherjee, C.J.;A.P. Shah, J

Bench : Division Bench

Judgement

M.K. Mukherjee, C.J.—These two appeals have been heard together as they stem from a common judgment

2. Facts relevant for disposal of these two appeals, are as under:

On January, 31, 1982 at or about 11.30 a.m. when Madhukar Trimbak Suryawanshi, the respondent in First Appeal No. 985 of 1985 was proceeding along Deola-Satna Road on a motor-cycle with Ashok Sukdeo Jadhav, the respondent in the other appeal, on the pillion, a truck suddenly dashed against them, as a result of which both of them sustained severe injuries. A matador which was also coming along that road at that time stopped there and its two occupants namely, Ratan Vithal Mahatma and Ramdas Trimbak Shewale took the two injured to a doctor and arranged for their treatment. Information about the accident was also lodged with the local Police Station.

3. The above two injured thereafter filed two separate applications before the Motor Accident Claims Tribunal claiming compensation from the appellant No. 1, as according to them his truck bearing registration No. MTS-3195 had caused the accident, appellant No. 2, who, according to them was rashly and negligently driving the said truck, and the appellant No. 3, as the truck was insured with it. In contesting the claim of the respondents-claimants, the appellants raised various pleas, one of which was that the truck in question was not in any way involved in the accident and that, in fact, the truck was at a different place altogether at the material time.

4. On consideration of the evidence adduced before it, the Tribunal allowed both the claims by the impugned judgment and aggrieved thereby, the appellants have filed the instant appeals.

5. The only contention that was raised in support of these two appeals was that the learned Tribunal failed to consider that there was no reliable evidence in support of the claim of the respondents that the truck in question, namely MTS-3195 caused the accident and for that matter injuries on the persons of the two claimants. Having carefully considered the materials on record, including the evidence adduced on behalf of the parties before Tribunal, we find no substance in the above contention.

6. To substantiate their claim that due to rash and negligent driving of the truck in question they sustained injuries, the claimants besides examining themselves, examined a doctor who attended to their injuries, a Police Officer who had registered the complaint of the claimants, the two occupants of the matador van who had taken the injured to the doctor for their treatment and a driver who had signed the panchnama that was prepared in respect of the seizure of the truck on the date of the incident. The evidence of the two claimants and the occupants of the matador van, who are two professors, unmistakably prove that the accident took place owing to the rash and negligent driving of the driver of the truck No. MTS-3195. On perusal of their evidence we find that apart from the fact that their evidence is consistent and cogent, no suggestion was even put on behalf of the appellants to any of these witnesses that the above truck was not in any way involved in the accident.

7. Coming now to the evidence adduced on behalf of the appellants, we find that as many as six witnesses were examined on their behalf. The driver in question, namely, appellant No. 2 herein, while admitting that on that day he had passed through Deola village - where the accident admittedly took place - he stated that the time at which he passed through that village was at about 1.30 p.m. and he further stated that his truck was not in any way involved in any accident. The other evidence on this point which was adduced on behalf of the appellants, was through Chandrabhan Bhika Pagar, the cleaner of the truck, who also stated that their truck did not meet with the accident in the manner alleged by the claimants. Having regard to the evidence of the two claimants, and, particularly the evidence of the two professors whom we do not find any reason to disbelieve, we are not inclined to place any reliance upon the evidence of the driver and the cleaner.

8. In view of the above discussion and since no other point has been raised in support of these appeals, we find no hesitation in dismissing the same. There will be no order as to costs.

9. The Registrar of this Court is directed to ensure payment of the awarded amounts, which are lying in deposit under orders of this Court, to the respondents-claimants, along with interest that has accrued thereupon, within a

month from date.