

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Misc. Appeal No. 429/2019

1. General Manager Rajasthan State Road Transport Corp.,
Jaipur (Raj.)
2. Chief Manager, Rajasthan State Road Transport
Corporation, Sriganaganagar Depot, Sri Ganganagar (Raj.)
(Bus Owner)

----Appellants

Versus

1. Sonu

2. Liladhar

----Respondents

Connected With

S.B. Civil Misc. Appeal No. 428/2019

Rajasthan State Road Transport Corp., Through Chief Manager,
Sriganaganagar Depot, Sri Ganganagar (Raj.) (Bus Owner)

----Appellant

Versus

1. Fataram

2. Liladhar

----Respondents

S.B. Civil Misc. Appeal No. 430/2019

1. General Manager Rajasthan State Road Transport Corp.,
Jaipur (Raj.)
2. Chief Manager, Rajasthan State Road Transport
Corporation, Sriganaganagar Depot, Sri Ganganagar (Raj.)
(Bus Owner)

----Appellants

Versus

1. Bano

2. Liladhar

----Respondents

For Appellant(s) : Mr. L.K. Purohit

For Respondent(s) : Mr. Ravi Panwar

HON'BLE MR. JUSTICE RAMESHWAR VYAS

Judgment

/05/2022

The instant appeals have been filed by the appellants against the judgment & award dated 01.11.2018 passed by Motor Accident Claims Tribunal, Bikaner (afterwards referred as 'Tribunal') in MAC Nos.256/2006 (882/2014), 381/2006 (883/2014) & 255/2006 (881/2014), whereby, the Tribunal has awarded a sum of Rs. 1,24,500/-, Rs. 22,306/- & Rs. 19,100/- respectively alongwith interest @ 7% per annum from the date of application i.e. 24.06.2006.

As above appeals arise from common judgment, the same are being decided by common judgment.

The claim petition was filed by the claimants -Smt. Bano, Sonu & Fataram with the averments that on 12.11.2005 at about 02:00 PM they were going on Camel Cart from Palana village to Bikaner; when they reached 15 kms. near to Bikaner at 03:00 AM, a Bus bearing registration No. RJ13-P-3397, being driven rashly & negligently by its driver, came from behind and hit the Camel Cart; resultantly camel died on the spot and Smt. Bano, Sonu and Fataram sustained grievous injuries, for which, claimants claimed

compensation to the tune of Rs. 3,50,000/-, Rs. 2,27,000/- & Rs. 7,50,000/- respectively.

The claim petition was opposed by the appellants herein with the averments that the accident took place on account of rash & negligent driving by the driver of Camel Cart; the Bus was going on its right side; the Camel Cart was being driven in the middle of the road and was heavily loaded with the bags of cluster beans. A Truck came from the opposite side and on account of high beam lights of Truck, Camel Cart got unbalanced, resultantly, bags fell on the Camel Cart and collided with the bus; it was further averred that the Bus was not being driven rashly & negligently and the accident was result of the negligence on the part of Cart driver.

The Tribunal framed six issues; on behalf of claimants four witnesses were examined, whereas non-claimants examined two witnesses. After hearing the parties, the Tribunal while holding the non-claimants liable for the accident awarded aforesaid compensation in favour of claimants.

It was submitted by learned counsel for the appellants that the Tribunal erred in recording finding that the Bus was being driven rashly & negligently by its driver; the said finding was based on assumption. It was submitted that the evidence has not been considered in right perspective. No independent eye witness has been examined on behalf of the claimants.

It was further submitted that the accident took place due to negligence on the part of Cart driver; a bare perusal of the site plan and statements of witnesses go to show that Bus driver was not solely responsible for the accident, therefore, the award impugned deserves to be quashed and set aside.

On the contrary, learned counsel for the claimants submits that the accident was the result of rash & negligent driving of the Bus driver. The amount awarded by the Tribunal is just & fair and need not be interfered with.

Considered the rival contentions of learned counsel for the parties and perused the record.

Regarding rash & negligent driving, it is not in dispute that the Bus collided to back side of the Camel Cart. As per statement of the Bus driver since no reflectors were affixed on the Camel Cart, on account of high beam lights of the Truck, coming from opposite side, he could not see the Cart going on ahead of him. He also stated that the Camel Cart was running in middle of the road. As per his defence, on account of high beam lights of the Truck, the Camel Cart became imbalance and collided with the Bus. He admitted that he could see the Camel Cart only when the Bus reached near the Camel Cart. The Bus conductor also reiterated the statement made by the Bus driver.

After considering the evidence, this Court is of the opinion that the Tribunal did not commit any error in fastening liability of the accident on Roadways Bus driver. The Roadways Bus driver was under an obligation to drive the Bus with more caution and control. The time of accident was mid of the night. The speed of the Bus should be to the extent that the driver could stop the Bus when required. Whereas, from the statement of Bus driver it is evident that he failed to control the Bus after seeing that the Camel Cart was going ahead of him in the same direction. The defence of the Bus driver is not acceptable. It is true that the accident could be avoided if reflectors were affixed on the back side of Camel Cart. But it is also true that had the Bus driver

would drive the Bus with more caution and control the accident would not have happened.

In the MACT cases claimants are not under an obligation to prove their case beyond reasonable doubt. If the evidence of the Bus driver is accepted as it is then also he cannot be escaped from his liability towards the claimants. The accident was the direct result of negligence on the part of Bus driver. The contentions raised by the appellant RSRTC are not sufficient to absolve from its vicarious liability for the negligent act on the part of its employee.

Regarding quantum of compensation the Tribunal made assessment of compensation after taking into account the nature of injuries sustained by both the injured and their hospitalization period as also permanent disability at 10% caused to Sonu. Injured Sonu was awarded a sum of Rs. 1,24,500/-, injured Smt. Bano was awarded a sum of Rs. 19,100/-, and injured Falaram was awarded a sum of Rs. 22,306/- for his injuries and damage to his Camel Cart.

Looking to the nature of injuries sustained and pain & suffering caused to the claimants and other relevant circumstances, the quantum of compensation awarded by the Tribunal to the claimants is just and fair. There is no reason to reduce the amount of compensation awarded by the Tribunal.

In the result the appeals are liable to be dismissed and the same are hereby dismissed. Record be sent back to Tribunal.

Before parting with the judgment with the intent to save several human lives from road accidents this Court deems it fit to direct the State Government to evolve mechanism so as to ensure affixing of reflectors on all types of Animal Carts, Tractor Trolleys

and similar types of rides on road. For implementing the directions, the State Government has not only to raise funds but make available human resources also since it is the duty of the State Government to save the human lives and losses from such accidents.

The State Government is also directed to ensure that the persons, who ride on roads without adopting proper safety measures, so as to endanger the life and safety of other persons, be dealt strictly under the provisions of relevant penal provisions.

A copy of this judgment be sent to the Chief Secretary, Government of Rajasthan for necessary action and submitting compliance report.

33 to 35-AK Chouhan/-



(RAMESHWAR VYAS),J

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