
(1982) 03 MP CK 0015

Madhya Pradesh High Court (Indore Bench)

Case No: Miscellaneous Appeal No. 78 of 1977

Shankarlal

APPELLANT

Vs

M.P. State Road Transport
Corporation and Another

RESPONDENT

Date of Decision: March 23, 1982

Acts Referred:

- Motor Vehicles Act, 1988 - Section 110D

Citation: (1983) ACJ 447

Hon'ble Judges: R.K. Vijayvargiya, J

Bench: Single Bench

Advocate: B.K. Samdani, for the Appellant; S.K. Dubey, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

R.K. Vijayvargiya, J.

This appeal by the claimant u/s 110-D of the Motor Vehicles Act is directed against the award dated 26.11.76 passed by the Member, Motor Accidents Claims Tribunal, Shajapur in claim case No. 10 of 1975.

2. The facts giving rise to this appeal briefly stated are as follows: The Appellant is the owner of truck No. M.P.F. 6657. On 22.4.75 at about 6.00 a.m. the Appellant's aforesaid truck was coming from Shajapur side and proceeding towards Indore. The said truck stopped near Makshi Chowki in front of the hotels which are situated on the road side. Passenger bus No. M.P.W. 1134 owned by the M.P. State Road Transport Corporation (hereinafter referred to as "the Corporation") and driven by its driver Premsingh Ojha came from the Shajapur side and dashed against the stationary truck of the Appellant. The truck was badly damaged in the accident. The Appellant claimed a sum of Rs. 35,000/- as compensation from the Respondents for the damage caused by the rashness and negligence of the driver Premsingh in

driving the said bus in the course of his employment with the Respondent No. 1 Corporation. The Respondent No. 2 is the mother of the driver Premsingh and was joined as a party as the legal representative of Premsingh because Premsingh died in the accident. The Respondents contested the claim. According to them the driver of the Appellant's truck was negligent in parking the truck on the right side of the road which was not visible in the darkness and the accident was not caused on account of the rashness or negligence of the driver of the bus. The Tribunal held that it was not proved that the accident was caused on account of the rashness and negligence of the driver of the bus. The Tribunal dismissed the claim of the Appellant. The Tribunal also gave a finding that if it is held that the accident was caused on account of the negligence of the driver in driving the bus the claimant is entitled to Rs. 15,000/- as compensation from the Corporation. Aggrieved by the award of the Tribunal the claimant has preferred this appeal.

3. The Learned Counsel of the Applicant contended that the Tribunal committed an error in holding that it was not proved that the accident was caused on account of the rashness and negligence of the driver of the bus belonging to the Corporation in driving the bus because the truck of the Appellant was parked on the wrong side of the road. The Learned Counsel for the Applicant also contended that the Tribunal committed an error in not assessing damages for 20 days during which the truck of the Appellant remained under repairs and could not be gainfully used. The Learned Counsel for the Respondents supported the award of the Tribunal.

4. Having heard Learned Counsel for the parties I have come to the conclusion that this appeal deserves to be allowed. Now it is not in dispute that there was an accident in which the truck belonging to the Appellant was damaged. It is also not in dispute that when the accident was caused the Appellant's truck was parked on the right side of the road near the hotels. The Tribunal held that as the truck was parked on the right side of the road, it cannot be held that the accident was caused on account of the rashness or negligence of the driver of the bus in driving the same. It is difficult to appreciate the reasoning of the Tribunal. The bus belonging to the Corporation was proceeding in the same direction. The bus therefore should have been driven on the left side of the road. If that was done the accident would not have taken place because the Appellant's truck was parked on the right side of the road.

5. There would have been some force in the contention of the Learned Counsel for the Corporation if the Appellant's truck was parked on the left side of the road and the road was obstructed because of the parking of the truck on the road. In the present case no material has been placed on record why the bus belonging to the Corporation was being driven on the right side of the road. The driver of the bus being dead could not be examined. The conductor of the bus Premnarain (N.A.W.1) also could not state any reason why the bus was being driven on the right side of the road when the accident took place. The fact that the bus of the Corporation at

the time of the accident was being driven on the right side of the road contrary to the traffic regulations is prima facie indicative of the fact that the bus driver was negligent in driving the bus. The Tribunal therefore committed an error in holding that it was not proved that accident was caused on account of the negligence of the driver of the bus in driving the bus. On the evidence and materials placed on record I am of the opinion that the accident which damaged the Appellant's truck was caused by the negligence of the driver in driving the bus belonging to the Corporation and therefore, the Corporation is liable to pay compensation to the Appellant for the damage caused to his truck.

6. The Tribunal has accepted the testimony of Narman (A.W.1), Karnelsingh (A.W. 2), Udaisingh (A.W.3) and the Appellant Shankerlal (A.W.7) that the Appellant spent Rs. 15,000/- in the repairs to the truck, which was damaged in the accident. It is also proved that the truck remained under repairs for 20 days. The Learned Counsel for the Respondents was unable to point out any infirmity in the finding recorded by the Tribunal that Rs. 15,000/- were spent by the Appellant in the repairs of the truck. The Tribunal therefore did not commit any error in assessing Rs. 15,000/- as damages payable to the Appellant. However, the Tribunal committed an error in not allowing any amount as damages to the Appellant for 20 days during which the truck remained under repairs and could not be gainfully used. The Appellant and his driver Kamal (P.W. 6) deposed that the Appellant was earning Rs. 200/- to Rs. 250/- per day from the said truck. However, the Appellant did not produce any account in support of his claim. In my opinion, it would be reasonable to award a sum of Rs. 100/- per day to the Appellant for 20 days during which his truck could not be gainfully used.

7. Thus the Appellant is entitled to receive a sum of Rs. 15,000/- which he spent on the repairs of the truck and Rs. 2,000/- as damages for the loss of income from the truck for 20 days during which the truck remained under repairs; total Rs. 17,000/- from the Corporation. The appeal of the Appellant therefore, deserves to be allowed to this extent.

8. As a result of the discussion aforesaid this appeal is allowed with costs. The award of the Tribunal is set aside and it is directed that the Respondent No. 1 Corporation shall pay to the Appellant a sum of Rs. 17,000/- with interest at 6 per cent per annum from the date of the application till realisation. Counsel's fee Rs. 200/- if certified.