

.\* **HIGH COURT OF DELHI : NEW DELHI**

+ **W.P. (C) No. 18890 of 2006**

Delhi Transport Corporation .....Petitioner  
Through: Ms. Arati Mahajan Shedha, Adv.

Versus

Ranbir Singh ....Respondent  
Through: Mr. M.P. Sinha, Adv.

Judgment pronounced on: 21.10.2010  
Coram:

**HON'BLE MR. JUSTICE MANMOHAN SINGH**

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

**MANMOHAN SINGH, J.**

1. The petitioner has filed the present writ petition under Articles 226 and 227 of the Constitution of India praying for writ/direction to quash the impugned order dated 08.03.2004 passed by the Presiding Officer, Industrial Tribunal No. III, Karkardooma Courts, Delhi.

2. The brief facts of the case are that since 1988 the respondent was working with the petitioner as a RC driver under batch no. 18714. On 12.04.1994 the respondent was on duty driving Bus No. DLIP-9908 on route No. Delhi-Meerut-3. At about 11.40 a.m., there was an accident due to the negligence and carelessness of the driver, as per the case of the petitioner, causing the death of three people on spot and injury to other fifty.

3. The inspection was carried out by Shri Chattar Singh, Traffic Inspector (T.I.) Token no. 22411 and after the submission

of his report the respondent was placed under suspension.

4. A charge sheet dated 14.06.1994 was issued against the Respondent. The respondent submitted his reply to the said charge sheet, therefore, on 28.10.1994 enquiry as per rules and regulations of the petitioner-DTC was conducted.

5. Shri Chattar Singh and the statement of the Traffic Supervisor was also examined by the petitioner and they deposed that the accident happened because of rash driving of the Respondent who was also allowed to cross-examine Shri Chattar Singh during the enquiry.

6. On the basis of the enquiry report, the show cause notice dated 15.05.1995 was issued to the respondent who had submitted his reply. On the basis of the said enquiry report the competent authority vide memo dated 29.05.1995 awarded the following punishment

“Stoppage of his next three increments with cumulative effect”.

7. In pursuant thereto, an appeal was filed by the respondent before the Appellate Authority which was dismissed vide order dated 17.10.1995. Thereafter the respondent raised his dispute before the Industrial Tribunal.

8. In his statement of claim, it was alleged that from the charge sheet dated 14.06.1994, the petitioner/DTC was of prima facie opinion that the accident had taken place due to the negligence of the respondent even though the respondent gave a satisfactory reply to the charge sheet. The departmental enquiry was conducted against the respondent in a routine fashion and on the basis of biased report of the enquiry officer the respondent

was awarded the aforesaid punishment of stoppage of his three increments.

9. In the written statement filed before Industrial Tribunal No.III by the petitioner, it was denied by the petitioner that the accident occurred due to bursting of front tyre but the accident occurred due to rash and negligent driving of the respondent. It was also denied by the petitioner that no case was registered against the respondent. It was contended in the written statement that a case was registered against the respondent at Thana Mangalore, District Haridwar on 12.04.1994.

10. The following issues were framed before the Industrial Tribunal on 19.2.1999:-

1. As per terms of reference.
2. Whether the claim is not maintainable for the reasons stated in para 1 & 2 of the Preliminary Objections of the W.S.?

11. An additional issue was framed on 14.7.1999:-

“Whether the management has hold a legal and valid enquiry as per rules of natural justice? (OPM)

12. In order to discharge the burden of an additional issue by the petitioner, Sh. B.P. Tyagi, AW1, appeared on behalf of the petitioner and in his affidavit claimed that he was the Enquiry Officer in this case. He had admitted that he had received the reply of the respondent to the charge-sheet and he held the enquiry as per rules and regulations of the petitioner. He deposed that he found that it was a case of rash and negligent driving. He proved the copy of the report Ex.MW1/1, Suspension Letter Ex. MW1/2, Charge-sheet Ex.MW1/3, report of fatal accident Ex.MW1/4, enquiry proceedings Ex.MW1/5 and his finding as Ex.MW1/6.

13. The Industrial Tribunal No.III vide his order dated 08.03.2004 gave the following finding on additional issue framed on 14<sup>th</sup> July, 1999:

“Sh. B.P. Tyagi, AW1 in his affidavit claimed that he was the Enquiry officer in this case, that after reply of Driver Ranbir Singh to the charge-sheet was received, he was appointed as Enquiry officer, that he held the enquiry as per rules and regulations of the Corporation and found that it was a case of rash and negligent driving because of which the fatal accident took place. He proved on record copy of report Ex. MW1/1, Suspension letter Ex. MW1/2, Charge-sheet Ex. MW1/3, Report of fatal accident Ex. MW1/4, enquiry proceedings Ex. MW1/5 and his finding as Ex. MW1/6. On the contrary, Driver Ranbir Singh in his affidavit stated that the report of the enquiry officer was biased as his request for calling the passengers who were travelling in the bus when the accident occurred was not accepted. During the lengthy cross-examination of WW1 Ranbir Singh, no suggestion was put on behalf of DTC to him that he did not make any request to call the passengers in defence. His statement on the point as such goes unassailed. Such vital omission on the part of Enquiry Officer obviously establishes that enquiry was not conducted in a fair manner. Workman in his statement of Claim pleaded that tyre which goes burst was very weak and was placed in service in this bus in January, 1991. Surprisingly, bursting of this tyre in the bus being driven by Ranbir Singh on the date of alleged accident which took place in the year 1994 was not specifically denied by Delhi Transport Corporation in its Written Statement. Though, police report to the effect that accident took place due to burst of the tyre was before the Enquiry Officer including the report of the accident report Ex. MW1/4 to the effect that accident took place due to puncture of the tyre, these two reports were not at all referred to in the enquiry report Ex. MW1/6. This enquiry report on the face of it is solely, based on the conjectures of one Shri Chatar Singh, Traffic inspector. For all these reasons, the enquiry conducted by AW1 Shri B.P.

Tyagi cannot be held to be legal and valid enquiry and as per rules of natural justice. The same is, therefore, set aside. This additional issue is decided in favour of the workman and against the management.”

14. Issue nos. 1 and 2 were also decided in favour of the respondent and against the petitioner who has challenged the award by filing of the present writ petition.

15. In a nutshell the case of the petitioner is that the accident occurred because of the respondent / driver trying to overtake a heavy vehicle at a high speed and that was the result of this collusion. Therefore, the cause of accident was not sudden burst of the tyre but rather the tyre was got punctured after the accident.

16. In the enquiry report it was found by the Enquiry Officer that it is a case of rash and negligent driving because of which the fatal accident took place. In the enquiry report nowhere it was mentioned about the burst of the front right tyre rather the Enquiry Officer has specifically given his finding after considering the statement of Chatar Singh, Traffic Inspector that the tyre did not get burst at all. It is also a matter of fact that the statement of Traffic Inspector, Chatar Singh is contrary to the view of the mechanical report dated 14.04.1994 which was placed on record by the petitioner itself. It is also a matter of record that even Chatar Singh in the accident report Ex. MW1/4 in the column where the cause of accident is given mentioned that “Accident took place due to front tyre puncture”. In the enquiry report Traffic Inspector Chatar Singh was referred as an eye-witness and the Enquiry Officer relied upon his report Ex. MW1/4 which itself stated that he reached the place of accident after about twelve

hours of the accident having taken place. In the report, it was also mentioned that the Police Sub-Inspector, Pritam Singh had concluded that the accident took place due to front tyre puncture and was a result of an act of God.

17. The respondent in his statement of claim has specifically pleaded that the tyre which got burst was very weak and was placed in service in this bus in January, 1991 and he was the same driver on the date when the accident took place in the year 1994. The said statement of the respondent was not denied by the petitioner in its written statement. It is a matter of fact that as per the police report that the accident took place due to bursting of the tyre was before the Enquiry Officer including the accident report Ex.MW1/4 to the effect that accident took place due to puncture of the tyre.

18. On these facts, the Industrial Tribunal came to the conclusion that the enquiry of Mr. B.P. Tyagi, AW1, could not be held to be legal and enquiry was not conducted in fair manner as per rules and natural justice. The said issue was, therefore, decided in favour of the respondent and against the petitioner.

19. The Enquiry Officer even after the assessment of the report of Traffic Inspector Chatar Singh stated in the enquiry report Ex.MW1/6 that the tyre did not get burst at all. In the accident report Ex.MW1/4 even the Traffic Inspector Chatar Singh mentioned in the column for cause "Accident took place due to front tyre puncture". Thus, it is clear that enquiry report is based on non-application of mind and contrary to the record and documents placed and is, therefore, not sustainable in law.

20. After considering the documents and evidence produced

by the parties, the Industrial Tribunal has come to a conclusion that it was an unfortunate accident which took place on 12.4.1994 due to sudden right tyre burst of moving bus No. DL-1P 9908 being driven by the respondent and set aside the enquiry report in favour of the respondent.

21. This court totally agrees with the conclusion arrived at by the Presiding Officer, Industrial Tribunal No.III, and is of the view that the order passed by the Industrial Tribunal is legally correct and is not liable to be interfered with. There is no merit in the writ petition and the same is dismissed. No orders as to cost.

**MANMOHAN SINGH, J.**

**OCTOBR 21, 2010**

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