

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 2691 of 2007

Appellant :- U.P. State Road Transport Corp.

Respondent :- Smt. Surti Devi And Others

Counsel for Appellant :- Samir Sharma, Sunil Kumar Misra

Counsel for Respondent :- B.R. Sharma

Hon'ble Saral Srivastava, J.

1. Heard Sri Pramod Kumar Singh, Advocate bearing Advocate Roll No.A/P-0390/12 holding brief of Sri Sunil Kumar Misra, learned counsel for the appellant-U.P.S.R.T.C. and learned counsel for the respondents.

2. The present appeal has been preferred by the appellant-U.P.S.R.T.C. challenging the award dated 09.05.2007 passed by the Motor Accident Claims Tribunal/Additional District Judge/ (Fast Track Court-2, Maharajganj (hereinafter referred to as 'Tribunal') in M.A.C.P. No.95 of 2002 whereby the Tribunal has awarded Rs.6,31,000/- along with 6% interest as compensation to the claimants/respondents.

3. Challenging the aforesaid award, learned counsel for the appellant has contended that there was contributory negligence of the deceased in the accident inasmuch as deceased, who was riding the motorcycle, while overtaking the truck collided with U.P.S.R.T.C. Bus No.U.P.53-C-1450 and thus, Tribunal should have reduced the compensation to the extent of 50% negligence of the deceased in the accident.

4. Per contra, learned counsel for the respondents would contend that claimants/respondents proved by producing P.W.2 eye witness of the accident that the accident had taken place due to rash and negligent driving of driver of offending bus. It is further submitted that charge sheet has also been filed by the police against the driver of the offending bus. Accordingly, it is submitted that Tribunal after appreciating the evidence on record has rightly held that the accident had taken place due to the negligence of driver of offending bus.

5. Be that as it may, the Tribunal in concluding that the accident had taken place due to the negligence of driver of offending bus

has placed reliance upon the testimony of P.W.2, who was an independent witness of the accident. The testimony of P.W.2 is also corroborated by other documentary evidence on record. In the opinion of the Court, the Tribunal has rightly not believed the testimony of driver of offending bus since driver being employee of the appellant-U.P.S.R.T.C cannot give testimony against his employer.

6. In such view of the fact, the finding of the Tribunal on the issue of negligence of the driver of the offending bus in the accident is a finding of fact based upon proper appreciation of evidence on record and same is not liable to be interfered with by this Court in its appellate jurisdiction.

7. Thus, for the reasons given above, the appeal lacks merit and is hereby ***dismissed*** with no order as to costs.

Order Date :- 12.10.2023

Sattiyarth