

Court No. - 8

Case :- FIRST APPEAL FROM ORDER No. - 338 of 2003

Appellant :- U.P.S.R.T.C.Through Its Regional Manager
Lucknow

Respondent :- Smt. Bhagwata And Others 2

Counsel for Appellant :- D.K.Srivastava,Akhter
Abbas,Prabhakar Tiwari

Counsel for Respondent :- N.C. Upadhayaya

Hon'ble Ajay Bhanot,J.

The instant first appeal from order arises out of an award made by the learned Motor Accident Claims Tribunal/Additional District Judge, Sitapur in MAC No. 94/2000 (Smt. Bhagwata and others Vs. Uttar Pradesh State Road Transport Corporation) dated 17.02.2023 by partly allowing the claim of the claimants.

Briefly the case of the claimants before the learned tribunal was that the deceased and his wife were travelling to Sitapur Station on 20.03.2000. On the fateful journey, the deceased was driving his motorcycle while his wife was riding pillion. The driver of the UPSRTC bus bearing Registration No. UP80 D 9598 drove negligently and collided with the said motorcycle. The accident was caused solely by the rash and negligent driving of the driver of the offending UPSRTC bus which resulted in the death of the deceased and caused severe injuries on the person of the wife of the deceased.

Though many grounds are pleaded in the memo of appeal, the only ground is pressed in this appeal by Shri Prabhakar Tiwari, learned counsel for the appellant is that the learned tribunal erred in law in awarding compensation even though the factum of the accident itself was denied by the appellant.

After advancing his arguments, learned counsel for the appellant agrees that only the following question arises for determination in this appeal:-

"Whether the accident in which the deceased sustained fatal injuries and his wife also suffered grievous injuries occurred on 20.03.2000 or not?"

The claimants introduced one Jagdish as P.W. 2 to establish the factum of the accident and negligence of the driver of the offending UPSRTC bus.

P.W. 2-Jagdish testified before the learned tribunal that he was an eye witness to the accident. He deposed before the learned tribunal that the accident occurred solely on account of the rash and negligent driving of the driver of the offending UPSRTC bus. The said witness remained unshaken under cross examination. The witness duly established the fact that the accident occurred on 20.03.2000 and was caused by the negligence of the offending bus driver.

The learned tribunal which had the benefit of observing the demeanour of the eye witness found him to be worthy of credit and believed his testimony. This Court

has no reason to take any other view regarding the reliability of the said witness.

The learned tribunal also found Mohd. Idrish who was the driver of the offending UPSRTC bus to be an unreliable witness. This Court upon perusal of the testimony of Mohd. Idrish and the findings of the learned tribunal and does not find any basis to reverse the conclusions of the learned tribunal in this regard. No infirmity in the findings of the learned tribunal could be pointed out from the records.

Moreover, after the accident prompt F.I.R. was got registered and the driver of the offending UPSRTC bus was also arrested by the police authorities. Documentary evidences like F.I.R., postmortem report, and the chargesheet duly corroborated the accident.

It is noteworthy that the said documents could not be refuted before the learned tribunal. On the foot of the aforesaid evidences, the learned tribunal found for the claimants and against the appellant.

The fact that the offending bus was not seized at the spot and the site plan was not drawn up by the investigating officer depicts deficiencies in the police investigations. But the same can not adversely impact the case of the claimants under the Motor Vehicles Act. Criminal proceedings including police investigations into the offence are distinct from compensations claims under the Motor Vehicles Act. Both proceedings differ

in scope, purpose, procedure, standard of evidence and relief sought.

The claimants have fully established the factum of the accident and the negligent driving of the driver of the offending UPSRTC bus by standards of evidence applicable to the facts of this case.

Reliance on a communication sent by the police authorities from one police station to another police station does not in any manner aid the case of the appellant nor does it discredit the case of the claimants. There is no infirmity in the judgement of the learned tribunal. The findings of the learned tribunal are upheld.

In view of the above, the first appeal from order is liable to be dismissed and is dismissed.

Order Date :- 16.8.2023

Dhananjai