

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 285 OF 1999

Maharashtra State Road Transport
Corporation Ltd.,
Through its Divisional Controller,
Buldhana, Tq. & Dist. Buldhana

...APPELLANT
(Orig. Resp. No. 2)

VERSUS

1) Uttamrao S/o Rambhau Jadhav,
Age: 32 years, Occ. : Agri. &
Owner of Tempo Trax No.
MH 21/8513, R/o Mahora,
Tq. Jafrabad, Dist. Jalna

...RESPONDENT
(Orig. Claimant)

2) Muralidhar S/o Madhav Gite,
Age: 30 years, Occ. : Service
S. T. Bus Driver at Chikhali
S. T. Depot

...RESP. No. 2
(Orig. Resp. No. 1)

Mr D. S. Bagul, Advocate for appellant

CORAM : N.W. SAMBRE, J.

DATE : 2nd July, 2015

ORAL JUDGMENT

This appeal is by the Maharashtra State Road Transport Corporation, questioning the legality and validity of the judgment and award dated 25th February, 1999, rendered by the Member, Motor Accident Claims Tribunal, Jalna, in Motor Accident Claim Petition No.57 of 1997.

2. The claim petition was filed by respondent no.1/claimant seeking compensation in respect of damage to his Temp Trax bearing registration No.MGH-21-8513 in an accident caused by S.T. Bus bearing registration No.MH-31-8973, because of tyre burst of front Driver side wheel. The claim was made to the tune of Rs.1,10,000/- against the present appellant in view of damage cause to the vehicle of respondent no.1/claimant.

3. The present appellant filed its written statement Exh.13 and denied the claim, as according to it, the Driver of the jeep was driving the jeep in rash and negligent manner.

4. While answering the issue as regards, whether the accident took place on 16th September, 1995 because of rash and negligent driving of the S.T. Bus, the Tribunal answered the same in favour of respondent no.1 and awarded compensation of Rs.33,000/- with 12% interest by an award dated 25th February, 1999. Thus, the present First Appeal.

5. Mr Bagul, learned Counsel appearing on behalf of the appellant – State Transport Corporation, would strenuously urge that the tyre of Driver side front wheel of the Bus was burst, however, the negligence could not be attributed to the Bus Driver as the vehicle in question, which was at 'U' turn, was driven by respondent no.1/claimant in rash and negligent

manner. With a view to draw support to the said submission, the learned Counsel appearing on behalf of the appellant has placed reliance upon the testimony of the Bus Driver, who is examined at Exh.29. The spot panchnama (Exh.18) was also taken into account by the Tribunal while awarding compensation.

6. From the record, it appears that the evidence at Exh.18 – spot panchnama demonstrates the driving of S.T. Bus from the spot of accident to further 9 ft. as is apparent from the tyre marks. Apart from above, the S.T. Bus Driver has given an admission that tyre of his vehicle got punctured and he tried to stop the Bus by applying the brakes suddenly. It is required to be noted that the right side front wheel tyre of the Bus was punctured, wherein there is every likelihood that the said vehicle went out of control.

7. Based on the evidence that was produced in support of the claim , such as, toeing bill and other expenses incurred for repairs of the vehicle, the Tribunal awarded compensation of Rs.33,000/- along with interest at the rate of 12% per annum. In my opinion, no illegality could be noticed in the impugned judgment and award, as is sought to be canvassed on behalf of the appellant, particularly when the claim is for an amount of Rs.33,000/-.

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8. In the result, the appeal fails and stands dismissed with no order as to costs.

(N.W. SAMBRE, J.)

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