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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 7th January, 2015

+ **MAC.APP.639/2012**

UP STATE ROAD TRANSPORT CORPORATION..... Appellant

Through: Mr. Sunit Chander, Adv. with
Mr. Shadab Khan, Adv.

versus

DILIP G. KRISHAN & ORS. Respondents

Through: Mr. Amit Baisoya, Advocate for
Respondents no.1 & 2.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

CM APPL10378/2012 (delay) in MAC.APP.639/2012

1. For the reasons stated in the application, delay of 520 days in filing the appeal is condoned.
2. The application stands disposed of.

MAC.APP.639/2012

1. This appeal has been filed by the U.P. State Road Transport Corporation (UPSRTC) seeking recovery of the compensation already paid to the claimants from Uttranchal Parivahan Nigam, Dehradun (UPND).

2. The deceased Mrs.Chitra Parvati while riding on the pillion of a two wheeler bearing registration No.DNK-0684 met with an accident with a UPSRTC bus bearing registration no.UP-15-1805 on 14.01.1990. At the time of the accident, the bus was being driven by Mehboob Khan, its driver.
3. Initially, the appeal is stated to have been filed by the two claimants against the award dated 09.07.2002 of the Claims Tribunal. The appeal is stated to have been allowed and matter was remanded back to the Claims Tribunal and subsequently, a judgment dated 09.09.2010 was passed whereby compensation of Rs.3,83,000/- was awarded in favour of the claimants.
4. The short ground urged by the learned counsel for the Appellant is that during hearing of the appeal, *vakalatnama* was filed by Mr. S.K. Srivastava, Advocate on 05.07.2004 (available on page 47 of the paper book) on behalf of UPND on account of re-organisation of the UPSRTC. The learned counsel has also referred to a Notification dated 27.10.2003 (Annexure A-2) whereby there was division of assets, rights and liabilities between UPSRTC and UPND. The learned counsel for the Appellant also refers to Part III of the Notification, which is extracted hereunder:-

“PART-III

DIVISION OF ASSETS, RIGHTS AND LIABILITIES

“4. Assets, rights and liabilities to be divided as on the 31st March, 2002 – The assets, rights and liabilities of the existing corporation, other than those dealt with in paragraph 3, as shown in the balance sheet shall be divided between the successor authorities in accordance with the principles contained in this part.

5. Division of assets, rights and liabilities-(1) Issues on which consensus has been reached between the successor corporation and successor authorities, action as per mutual agreement shall be taken.

(2) The assets and liabilities including buses, inventory, fixed assets and field staff, posts and stores located in the various regions of the existing corporation shall be divided on the basis of ‘as is where is basis’ as on appointed day.”

5. It is urged by the learned counsel for the Appellants that in terms of paras 4 and 5, Part-II of the Notification, the first bus in question which was of a Roorkee Depot has now fallen under the share of UPND and therefore, it is UPND who is liable to pay the compensation. Consequently, it is urged by the learned counsel for the Appellant that the compensation already paid may be ordered to be recovered by the Appellant from UPND.
6. It may be noted that the Notification simply states that there was division of assets and liabilities including buses between UPSRTC and UPND. No application was moved either by the Appellant or UPND

stating that the bus in question had fallen to their share or that the liability in question has been transferred to UPND.

7. It is true that a *vakalatnama* dated 05.07.2004 had been filed by UPND in the High Court in the earlier appeal but that by itself will not absolve the Appellant of its liability to pay the compensation in respect of accident which took place with the bus owned by the Appellant.
8. The appeal is devoid of any merit; the same is accordingly dismissed.
9. The Appellant, however, shall be at liberty to have appropriate remedy against the UPND, as may be advised.
10. Pending applications, if any, also stand disposed of.

(G.P. MITTAL)
JUDGE

JANUARY 07, 2015
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