

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.72 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 7851 of 2004

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Vikrama Yadav Son Of Late Rampujan Yadav Resident Of Village-
Nandpur, P.O. + P.S.- Ekma, District- Siwan

.... Appellant

Versus

1. The State Of Bihar Through The Secretary, Transport Department,
Government Of Bihar, Patna
2. The Bihar State Road Transport Corporation Through its Chairman
Parivahan Bhawan, Patna
3. The Director, B.S.R.T.C., Patna
4. The Administrator, B.S.R.T.C., Patna
5. The Deputy Chief Mechanical Engineer, BSRTC, Patna
6. The Divisional Superintendent B.S.R.T.C., Chapra
7. The Divisional Manager, B.S.R.T.C., Chapra

.... Respondents

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Appearance :

For the Appellant : Mr. Shashi Shekhar Tiwary, Advocate
For the State : Mr. Subhash Prasad Singh, GA 7
For BSRT Corporation : Mr. P K Verma, Sr. Advocate
Mr. L K Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

**HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

6 31-03-2016 The challenge in the present Letters Patent Appeal is to

an order dated 18.10.2011 passed by the learned Single Judge in

CWJC No. 7851 of 2004, whereby the challenge to the order dated

8.5.2004, issued by the Administrator, Bihar State Road Transport

Corporation (hereinafter referred to as 'the Corporation'),

remained unsuccessful.

By order dated 8.5.2004, recovery of Rs.46,874/- from

the present appellant and amount of Rs.23437/- each from Sri Satya Narayan Singh and Shri Vishwakarma, were ordered to be made on account of causing damage to the engine of the bus of the Corporation by their negligent conduct.

The appellant submits that the bus was returning from Siliguri to Chapra and on return journey, mobil pipe of the vehicle bursted. The appellant stopped the vehicle and informed the Authorities. Thereafter, as per the mechanics, the vehicle was driven which led to the damage to the engine. The contention of the appellant is that it was not his negligence but the negligence of the mechanics which caused damage to the engine.

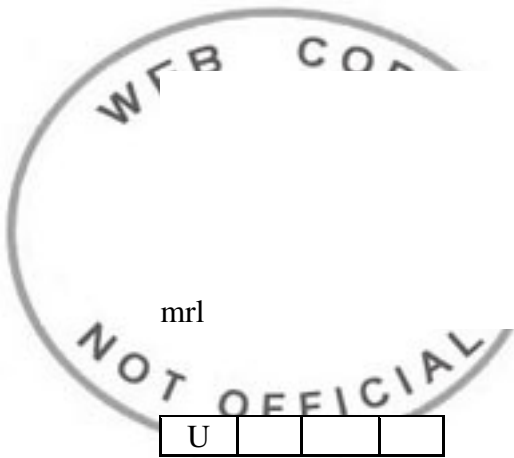
We have heard learned counsel for the parties and find that the order dated 8.5.2004 has appropriated negligence between the appellant and the two mechanics. But as to why the appellant is responsible for 50% of the damages has not been made out. The order does not give a reason of appropriation of the damage between the appellant and the mechanics.

In that view of the matter, it would be appropriate to allow the present appeal and remit the matter to the Administrator of the Corporation to pass a fresh order after considering the role of the appellant and the mechanics to apportion loss between them.

Appeal is allowed accordingly.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)



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