

\$~R-520

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

Decided on: 20th November, 2017

+ **MAC APPEAL 658/2012**

RAJ PAL AND ANR.

..... Appellant

Through: None

versus

HARYANA ROADWAYS & ORS.

..... Respondents

Through: Mr. Pankaj Seth, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellants had instituted accident claim case (MACT 10/00/11) on 29.08.2000 seeking compensation under Section 166 of the Motor Vehicles Act, 1988 on account of death of their mother Maya Devi allegedly on account of the injuries suffered by her in a motor vehicular accident that had occurred on 26.12.1999. It was their case that Maya Devi had boarded the bus bearing no.HR-2PA-0202 of the first respondent from Fatehabad in Haryana for Delhi. The bus having reached near Delhi border, had gone out of order and consequently the passengers were made to alight. It was alleged that when the passengers were in the process of being transferred to another bus, due to negligence on the part of its driver, Maya Devi lost balance while on the foot board and fell down to suffer injuries that proved fatal.

2. The Motor Accident Claims Tribunal (Tribunal) held inquiry but found that there was no evidence adduced on the question of negligence on the part of the bus driver and on that basis dismissed the claim case by judgment dated 02.03.2012 which is sought to be impugned through the appeal at hand.

3. The appeal was listed before the court on 21.01.2016 when no one appeared for the appellants, the previous proceedings also indicating such neglect on their part. Directions had been earlier given for brief synopsis of arguments to be submitted but the same were not complied with. Against this backdrop, the appeal was put in the list of 'Regulars', to come up on its own turn.

4. When the appeal is taken up on its turn, there is no appearance again on behalf of the appellants. The learned counsel for the third respondent is present and has been heard and with his assistance record perused.

5. There were only three witnesses examined at the inquiry, they including Head Constable Narender Kumar (PW-1), first claimant Rajpal (PW-2) and the second claimant Krishan Kumar (PW-3). Both PW-2 and PW-3 were not eye-witnesses. PW-1 only proved copy of the FIR (Ex. PW1/A) which had been registered by the local police. It is clear that there is no evidence worth the name on the issue of negligence.

6. The appeal, therefore, is devoid of substance and is dismissed.

R.K.GAUBA, J.

NOVEMBER 20, 2017

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