$~R-347

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

Decided on: 23rd October, 2017

\+ MAC APPEAL 514/2011 and CM 10924/2011

UP STATE ROAD TRANSPORT CORP. ..... Appellant
Through: Ms. Garima Prashad, Advocate

versus

KARUN GANGWAR ..... Respondent
Through: None

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The first respondent (claimant) had instituted accident claim case (suit no.193/2008) on 17.03.2008 seeking compensation under Section 166 of the Motor Vehicles Act, 1988 for injuries suffered in a motor vehicular accident that had occurred on 30.10.2007. He alleged in the claim case that while waiting on the roadside for a transport, he was hit by a bus bearing registration no. UP-76F-9858 of the appellant, it being driven at the relevant point of time by its driver-cum-employee Rajesh Kumar Gupta who was also impleaded as party respondent.

2. The Motor Accident Claims Tribunal (Tribunal) held inquiry and, by judgment dated 05.02.2011, accepted the case for compensation holding the said bus driver responsible rejecting the

contention of the appellant and of the driver that the bus was not involved in any such accident. By the said judgment, compensation was awarded, the liability to pay having been fastened against the appellant.

3. The appeal at hand questions the finding of the tribunal holding the bus driver liable for the accident. It is submitted that its evidence led through the testimony of the said driver (RW-1) on the strength of his affidavit (Ex. R1) was wrongly rejected. It is, however, noted that the claimant had appeared as his own witness (PW-1) on the strength of his affidavit (Ex. P1/A) affirming that the accident had occurred due to the negligent driving of the bus, it having hit him while he was standing on the roadside. During cross-examination of PW-1, all that was suggested to him was that the accident had occurred due to he (the claimant) moving negligently on the road. There was no suggestion given denying the involvement of the bus.

4. In the above facts and circumstances, the appeal is found devoid of substance and is dismissed. The pending application also stands dismissed.

5. By order dated 30.05.2011, the insurance company had been directed to deposit the entire awarded amount with upto date interest with the Registrar General and from out of such deposit 50% was allowed to be released to the claimant. The registry shall now calculate the balance amount payable to the claimant in terms of the impugned judgment and release the same from out of the balance lying in deposit to the claimant within thirty days.

6. The statutory amount shall be refunded to the appellant.

R.K.GAUBA, J.

OCTOBER 23, 2017
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HIGH COURT OF DELHI
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