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

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Date of Decision: 06th July, 2017

+ W.P.(C) 9573/2015 & CM No.22613/2015

DELHI TRANSPORT CORPORATION Petitioner

Through: Mr.Uday N. Tiwary, Mr. Sunil
Kumar Ojha, Advocates

versus

PREM NARAYAN Respondent

Through: Mr. Sumit Rana, Mr. Siddharth,
Advocates.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The petitioner has challenged the award dated 2nd June, 2015 whereby the learned Industrial Tribunal has set aside the punishment of withholding two increments with cumulative effect imposed by the petitioner on the respondent.
2. The respondent is a driver with DTC. On 13th March, 2002, the respondent was driving bus No.DL-1PB-0181 on route no.521. At about 6.36 am, the respondent took a right turn under the Moolchand flyover and hit a pedestrian, Lal Bahadur who suffered fatal injuries. The petitioner initiated domestic enquiry against the respondent in which the respondent pleaded guilty whereupon the petitioner imposed a punishment of stoppage of two annual increments on the respondent.

3. The legal representatives of the deceased, Lal Bahadur filed an application for compensation before the Motor Accident Claims Tribunal. The DTC bus was validly insured with National Insurance Company Limited and vide judgment dated 24th August, 2004, the Claims Tribunal awarded compensation of Rs.3,92,000/- to the legal representatives of the deceased.
4. The respondent was prosecuted under Section 279/304A IPC. However, the criminal case resulted in acquittal on the ground that the police could not produce any eye witness.
5. The respondent challenged the imposition of punishment by the petitioner before the Industrial Tribunal on the ground that no evidence was recorded in the enquiry to prove the guilt of the respondent. The respondent pleaded that he signed a paper without reading on the assurance that no action would be taken against him and he was misguided to admit the facts.
6. The learned Industrial Tribunal held that the respondent admitted the guilt under coercion. The Industrial Tribunal further held that no eye witness was examined to prove the negligence of the respondent.
7. Learned counsel for the petitioner has produced the original record which contains the inspection report after the accident. As per the inspection report, the pedestrian hurriedly/blindly appeared before the DTC bus whereas the respondent failed to control the speed of the bus and hit the man. The inspection report observed that both pedestrian and driver of DTC bus were at fault. The petitioner did not lead any evidence in the enquiry in view of the respondent's admitting the guilt and the punishment of stoppage of two annual increments is fair and reasonable.
8. Learned counsel for the respondent urged that the respondent has been

acquitted in the criminal case. It is further submitted that no eye witness was examined by the petitioner in the enquiry proceedings. It is further submitted that the respondent's admission was under coercion and therefore, not binding on the respondent.

9. This Court is of the view that the finding of coercion by the Industrial Tribunal is not based on any cogent evidence. The respondent admitted in the statement of claim that he signed the admission of guilt without reading on the assurance that no action would be taken against him. However, no evidence was led to prove who gave him such assurance. The admission of guilt by the respondent is held to be voluntary. In view of the admission of guilt, the petitioner was justified in not leading the evidence. The acquittal of the respondent in the criminal case is on the ground that the prosecution was unable to produce the eye witness whereas the award of compensation of Rs.3,92,000/- by the Motor Accident Claims Tribunal to the legal representatives of the deceased is based on the negligence of the respondent. This Court is of the view that the accident in question would not have occurred if the respondent had full control over the vehicle. Even if the pedestrian was negligent, the respondent was not in full control over the vehicle. The respondent was contributory negligent and the punishment of stoppage of two increments by the petitioner is just, fair and reasonable.

10. The petition is allowed; impugned award is set aside and the punishment of withholding of two increments with cumulative effect by the petitioner is upheld. The pending application is disposed of.

11. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

July 06, 2017
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J.R. MIDHA, J.

