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

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Decided on: 02.08.2019

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CM No. 26430/2019 & MAC.APP. No. 468/2014

UTTAR PRADESH STATE ROAD TRANSPORT CORPORATION

..... Appellant

Through: Mr. Shadab Khan, Advocate.

Versus

HARINDEER SINGH AND ANR.

.... Respondents

Through: Mr. Rakesh Sherawat, Advocate for
Respondents No. 1 and 2.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. The only ground on which this appeal is preferred is that the insured vehicle was not involved in the motor vehicular accident in which the kin of the claimant has lost his life. By the impugned order, the learned MACT has awarded a compensation to the respondent claimants.

2. It was the claimant's case that on 13.05.2012 while deceased Ankit Kumar Tokas was driving motorcycle bearing no. DL-3S-BX-3398, carrying his maternal aunt Rekha alongwith her minor daughter Chhavi as pillion riders and going to the house of his maternal uncle, his motorcycle was hit by a bus owned by the U.P. Roadways bearing no. UP-14-AH-9448. Ankit as well as the pillion riders received grievous injuries. During treatment,

Ankit and the minor Chhavi succumbed to their injuries. An FIR No. 48/12 vide Crime Number 127/12 u/s 279/338/304A/427 IPC was registered at PS-Salempur, District Shikarpur, Bulandshahar, Uttar Pradesh. The police prepared the site plan of the place of accident and produced the postmortem report of the deceased. The police also arrested respondent No.1-driver of the offending vehicle, namely, Mr. Virender Singh. It is not in dispute that Virender Singh was the driver of the offending vehicle and that he was employed by the U.P. State Road Transport Corporation.

3. This claim petition for compensation had been preferred apropos the demise of Ankit Kumar Tokas. In another claim petition filed for compensation for the loss of life of Chhavi, as well as for injuries suffered by her aggrieved mother Rekha, the learned MACT at Bulandshahar has already awarded compensation in MAC No.182/2012, dated 20.03.2013, after holding the appellant liable for the accident i.e. i) its aforesaid bus was found to be involved in the accident and ii) that it was being driven by the aforementioned driver. Interestingly, the driver of the offending bus has not tendered any evidence despite due notice. The learned Tribunal found the statement of the bus conductor unreliable and untrustworthy because the driver would have been in a better position to have witnessed the collision with the vehicle coming from the opposite direction. But the driver did not testify at all. Ordinarily, the conductor would be sitting towards the rear side of the vehicle and not in front, therefore, in the peculiar facts of this case his testimony was not found reliable. Additionally, the learned Tribunal has also found the aforesaid bus as well as driver, culpable for the loss.

4. In view of the above, the argument apropos the non-involvement of the vehicle is untenable.

5. In the circumstances, the appeal is without merits and is accordingly dismissed. The pending application also stands dismissed.

6. The awarded amount shall be deposited by the appellant within four weeks from the date of receipt of this order along with interest accrued thereon and the amount shall be disbursed to the beneficiaries of the award in terms of the scheme of disbursement specified in the award.

7. The statutory deposit of Rs.25,000/- alongwith interest accrued thereon be deposited in the 'AASRA' Fund.

NAJMI WAZIRI, J.

AUGUST 02, 2019

acm/sb

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