

2023:PHHC: 166102

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**FAO-4803-2023 (O&M)
Date of Decision: 20.12.2023**

UTTARAKHAND TRANSPORT CORPORATION

..... Appellant

VS

RAJ DULARI AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present : Mr. Amit Jaiswal, Advocate for the applicant-appellant.

GURBIR SINGH, J.

C.M.NO.16387-CII-2023

This application is filed under Order 1 Rule 10 read with Section 151 CPC for impleading Uttarakhand Transport Corporation as party in the appeal and for grant of leave to the Uttarakhand Transport Corporation to file appeal against award dated 05.04.2023 passed by MACT Yamuna Nagar at Jagadhari.

Learned counsel for the appellant/applicant submits that award dated 05.04.2023 was passed against the General Manager, Roadways Transport Bus Depot, Roorkee. He has placed on file the registration certificate of offending bus bearing registration number UK07PA-3102 belonged to the Uttarakhand Transport Corporation. In fact Uttarakhand

Transport Corporation defended the litigation. In order to avoid any objection at the later stage, the instant application is moved. As per the copies of the award dated 05.04.2023 passed by MACT Yamuna Nagar at Jagadhari the General Manager, Roadways Transport Bus Depot, Roorkee District Haridwar (Uttarakhand) is shown as owner of the offending bus whereas as per copy of the registration certificate of the offending bus, the same is owned by Uttarakhand Transport Corporation and address is mentioned as General Manager Technical, 1 Rajvihar Chakrata Road, Dehradun. Since the Uttarakhand Transport Corporation is owned by Govt. of Uttarakhand and it has actually defended the claim petition so it has right to be impleaded and to file the appeal. So civil miscellaneous is allowed.

Amended Memo of parties has already been filed and the same is taken on record. The Uttarakhand Transport Corporation is allowed to file the appeal.

Main case

1. Challenge in this appeal is to the award dated 05.04.2023 passed by MACT Yamuna Nagar at Jagadhari in the claim petition filed under Section 166 of the Motor Vehicles Act awarding a sum of Rs. 15,18,994/- as compensation to claimant No.1 i.e. mother of the deceased Balram.

2. The brief facts as culled out from the appeal are that on 23.02.2022 at about 7:30 P.M, Balram was going on his cycle from his village to village Harnaul for his work and his brother Mohal Lal was standing at bus stop, Golanpur. When Balram reached near bus stop village

Golanpur, on highway, a bus bearing no. UK-07-PA-3102 being driver by proforma respondent No.6 herein came from Ambala side in a very rash negligent and zigzag manner without blowing horn and hit the cycle of Balram and caused the accident, due to which Balram fell down on the road and offending roadway bus crushed Balram and his cycle due to which he died due to injuries sustained in the accident. The people gathered at the spot and called the ambulance and Balram was taken into Civil Hospital, Jagadhari where post mortem of deceased was conducted on 24.02.2022. An FIR No. 65 dated 24.02.2020 under Section 279, 304 A IPC was registered against respondent No.1 in P.S.Chhapar, on the statement of Mohan Lal. The accident took place due to rash and negligent driving of respondent No.1 of offending vehicle and Balram died in the said accident. The deceased was 20 years old and was mason by profession and was doing dairy farming and was earning Rs.40,000/- per month. The respondent/driver denied the accident. The proforma respondent No.6/driver took the plea that Balram died due his own negligence.

3. From the pleadings of the parties, following issues were framed vide order dated 10.10.2022:

1. Whether the accident in question resulting into death of Balram son of Bhangi Ram took place due to rash and negligent driving of bus bearing registration No.UK-07-PA-3102 by respondent No.1.
2. If issue No.1 is proved in affirmative, what amount of compensation the petitioners are entitled to on account of death of Balram.
3. Relief.

4. In support of case, claimants have examined Mohan Lal, eye witness as PW3, Raj Dulari, claimant No.1 appeared as PW2. Respondent

No.1 himself appeared as RW1 and tendered his driving licence which is placed on filed.

5. Learned Tribunal decided issue No.1 in favour of the claimants and issue No.2 in favour of claimant No.1 only, the deceased being unmarried. It is held that Balram was an unskilled labourer and as per notification issued by the Government under the Minimum Wages Act, Rs.10,098/- is taken to be monthly income of deceased. The age of the deceased was considered as 29 years for the purpose of compensation. The assessment made by the learned Tribunal is as follows:-

1.	Monthly Income of the deceased	Rs.10098/-
2.	Annual Income of the deceased	Rs.121176/- (10098x12)
3.	Future Prospects @ 40% (since deceased was 29 years)	Rs.48470.4/- $\frac{(121176 \times 40)}{100}$
4.	Deduction for personal and living expenses (½ as the deceased was unmarried)	$(121176+48470.4)$ $169646.4 \times \frac{1}{2} =$ 84823.2/-
5.	Multiplicand (multiplier of 17 as the age of the deceased was 29 years)	$169646.4 - 84823.2 =$ 84823.2 $84823.2 \times 17 =$ 1441994.4/-
6.	Loss of Estate	16,500/-
7.	Funeral Expenses	16,500/-
8.	Loss of Consortium (filial)	44,000/-
9.	Total Compensation	1518994.4/- (rounded off 15,18,994/-)

6. Learned counsel for the appellant- Uttarakhand Transport Corporation has argued that the learned Tribunal failed to take into

consideration the statement of RW1 in correct perspective. The deceased-Balram was hit by some unknown vehicle and bus in question was falsely involved and income of the deceased has been taken on the higher side.

7. I have heard the submissions of the learned counsel for the appellant.

8. The claimants have examined Mohan Lal as PW3, who is eye witness of the occurrence and he has duly proved that accident was caused by respondent No.6 herein by driving the bus in negligent and rash manner. The FIR was also registered on his statement. Even challan has been presented and respondent No.6/driver is facing the trial for causing the accident in question by driving the bus in negligent and rash manner and causing the death of Balram. The proceedings before the learned Tribunal are summary in nature and the appellant-Uttarakhand Transport Corporation is required to prove the case on the basis of preponderance of probability. It is not expected that a false case was registered against the bus belonging to the State. Moreover, the State of Uttarakhand did not take any step and driver of the bus did not file any complaint with any authority that false case was registered and bus was falsely been implicated.

9. Since the driver of the bus is facing trial and prima facie charges have also been framed against him, so this Court is of the view that the learned Tribunal has rightly held that accident was caused by respondent No.6 herein by driving the bus in negligent and rash manner causing death of Balram. Only minimum wages have been taken into consideration. The amount of compensation has been assessed in

accordance with law and learned counsel for the appellant-Uttarakhand Transport Corporation has failed to point out any illegality in the same.

10. In the light of the above, I am of the view that the appeal is without any merit and the same is dismissed.

(GURBIR SINGH)
JUDGE

20.12.2023
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>