



2024:DHC:8527



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 23rd October, 2024

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MAC.APP. 959/2019**BALRAM @ BALLU****.....Appellant****Through: Mr. Akshit Sawal and Ms. Aditi
Lakra, Advocates.****versus****SANJAY & ANR (RELIANCE GENERAL INSURANCE CO LTD)****.....Respondent****Through: Mr. S.K. Singh and Mr. B.K. Singh,
Advocates for R-1.****CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. An Appeal under Section 173 Motor Vehicle Act, 1988 ("M.V. Act" *hereinafter*) has been filed against the Impugned Award dated 23.08.2019 which has been dismissed by the learned Tribunal by observing that there was no rashness or negligence on the part of the alleged offending vehicle.
2. *Learned counsel on behalf of the claimant/appellant* has argued that the reliance has been placed on the MLC, wherein the *alleged history* given was that in an attempt to commit suicide, the injured had tried to escape and had come before the offending vehicle. However, this not the true and correct picture. In the trial before the learned M.M. in FIR No.508/2012, under Sections 279/337 IPC registered at PS Narela, the claimant Ballu Ram/ injured had deposed that he had been kicked by ASI Dharam Pal,



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because of which he fell in front of offending vehicle and suffered injuries. Reliance has also been placed on the testimony of PW4 HC Raj Kumar who was an eye witness and was accompanying the injured at the time of accident. He also deposed that the accident occurred due to the rashness and negligence of the offending vehicle.

3. It is further argued that in fact the FIR No.508/2012 had been recorded on the statement of HC Raj Kumar and after due investigations the Charge-sheet had been filed in which the trial was duly conducted. From the documents and the investigation in FIR, coupled with the testimony of PW4 HC Raj Kumar who was admittedly an eye witness and also the testimony of the claimant recorded before the Tribunal, it is abundantly established that the accident occurred due to the rashness and negligence on behalf of the offending vehicle. It is argued that the finding of the learned Tribunal in regard to there being no negligence on the part of the offending vehicle, is liable to be set aside and the claimant is entitled to compensation.

4. *Learned counsel on behalf of the Insurance Company*, however, has asserted that in the MLC it is clearly recorded that the injured had attempted suicide. It was a statement recorded on what was narrated by him. It is the injured who had tried to commit suicide by hitting into the ongoing offending vehicle. It is rightly held by the learned Tribunal that there was no rashness or negligence on the part of the offending vehicle. There is no infirmity in the Award and the Appeal is liable to be dismissed.

5. Submissions heard.

6. *Briefly stated*, on 16.09.2012 the petitioner who was in police custody in another FIR No.501.2012, tried to flee from the custody of the police and met with an accident with the offending vehicle/one tempo bearing No.UP-



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14T-9364 which was being driven by its driver/respondent No.1 Sanjay in a rash and negligent manner. FIR No.508/2012 was registered on the basis of the statement of HC Raj Kumar. After investigations, Chargesheet against respondent No.1 Sanjay was filed before the learned M.M. Detailed Accident Report (DAR) was filed before the learned Tribunal.

7. The claimant appeared as PW1 and tendered the affidavit of evidence, wherein he deposed that on the date of accident, he along with the police officials in police custody reached near Safiybad More, Narela on foot, when suddenly one Tempo bearing No.UP14T9364 came at a high speed in a rash and negligent manner in violation of the traffic rules, without taking care of the persons travelling on the road and hit the injured, because of which he fell and fainted and suffered grievous injuries and abrasions all over the body.

8. He became unconscious and was taken to SRH Hospital by the police officials, wherein his MLC bearing No. 1749/2012 Ex.PW1/3 was prepared. The perusal of the MLC shows that the petitioner/injured gave the history as *“alleged history of road traffic accident while petitioner Balram was trying to escape from the custody of the police for suicide purpose as told by the injured himself”*. Heavy reliance was placed on this statement recorded in the MLC by the learned Tribunal to hold that there was no rashness and negligence on the part of the offending vehicle. However, it has been overlooked that even if it is accepted that the claimant intended to commit suicide and tried to escape from the custody of the police, it does not imply that the vehicle which hit the petitioner/complainant was not rash and negligent in its driving. Every vehicle on the road is expected to exercise due care and caution and have sufficient control on the vehicle to such



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untoward coming forth of any individual before the vehicle. To say that merely because the claimant tried to escape from the custody of the police was sufficient to conclude that it was he who had hit into the vehicle, would not be correct.

9. This aspect is further corroborated by the testimony of PW-4 HC Raj Kumar who had deposed before the learned M.M and the certified copy of whose statement has been relied upon by both the parties. He had categorically deposed that the offending vehicle was being driven in a rash and negligent manner and hit the claimant who suffered grievous injuries and was taken to the hospital by him and ASI Dharam Pal.

10. The oral testimony of the claimant as well as PW-4 HC Raj Kumar further finds support from the Site Plan Ex.PW8/B which also shows that the offending Tempo *deviated from his line of driving and came towards the middle and hit the claimant.* The accident occurred in the middle of the road. The Charge Sheet also had been filed against the respondent No.1.

11. The learned Tribunal by only referring to selective evidence of the MLC of the claimant and overlooking the other evidence on record, fell in error in concluding that there was no rashness or negligence on the part of the offending vehicle in causing the accident.

12. The findings on Issue No.1 is, therefore, set aside and ***it is held that the accident occurred due to the rash and negligent driving of the Tempo by respondent No.1.***

13. The matter is hereby remanded back to the learned Tribunal to now consider Issue No.2 and decide about the quantum of compensation to which the claimant is entitled.

14. The parties are directed to appear before the Tribunal on 11.11.2024.



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15. The Appeal is accordingly disposed of.

**(NEENA BANSAL KRISHNA,
JUDGE**

OCTOBER 23, 2024/va