

**SUPREME COURT OF INDIA**

G.M., N.F. Railway, Malegaon, Guwahati

Vs.

Jitendra Shah

(K. T. Thomas and M. B. Shah, JJ.)

13.01.2000

**ORDER**

1. Delay condoned.

2. The only question mooted by the petitioner, General Manager, N.F. Railway, Malegaon, Guwahati is regarding jurisdiction of the Motor Accidents Claims Tribunal in awarding compensation to the victims of accident caused solely due to the negligence of the Railways. In the present case, the High Court found that petitioner - Railways is solely responsible for the accident as it happened on a manned level crossing which was not closed when the bus crossed the same and the bus was hit by a running train.

3. We do not think that this is a fit case for granting special leave for two reasons. First is that the question of law need not be gone into by us as the same has been settled by this Court in *Union of India v. United India Insurance Co. Ltd.*, (1997) 8 SCC 683 : (1998 AIR SCW 245 : 1998 SC 640) wherein a two Judge Bench of this Court declared the law to the effect that Motor Accidents Claims Tribunal has no jurisdiction if the accident is solely attributable to the negligence of the Railway and observed (Para 47 of SCC) : (Para 43 of AIR):

"47. We are of the opinion that the view taken by the Andhra Pradesh High Court, by way of obiter and the views of the Gauhati, Orissa and Madras High Courts are not correct and that the view taken by the Allahabad, Punjab and Haryana, Gujarat, Kerala and Rajasthan High Courts is the correct view. Further as pointed by the Gujarat High Court, claims where it is alleged that the driver/owner of the motor vehicle is solely responsible for the accident, claims on the basis of the composite negligence of the driver of the motor vehicle as well as driver or owner of any other vehicle or of any other outside agency would be maintainable before the Tribunal but in the latter type of cases, if it is ultimately found that there is no vehicle but the accident is only due to the sole negligence of the other parties/agencies, then on that finding, the claim would go out of Section 110(1) of the Act because the case would then become one of the exclusive negligence of Railways. Again if the accident has arisen only on account of the negligence of persons other than the driver/owner of the motor vehicle, the claim would not be maintainable before the Tribunal."

4. Second reason is that, the victims of this accident are entitled to compensation from the Railways at any rate, and compensation has been awarded to them and we are not disposed to disentitle them of the fruits of the award passed solely on the ground that they should have approached a different venue altogether. This is not a case which calls for a Special Leave to be granted in the aforesaid circumstances.

5. We dispose of this S.L.P. with the above observations.

Order accordingly.