

RAJASTHAN HIGH COURT

Rajasthan State Road Transport Corporation

Vs.

Babu Singh

Civil Misc. Appeal Nos. 521, 526 and 351 of 1997
(Prakash Tatia, J.)

11.10.2001

JUDGMENT

Prakash Tatia, J.

1. These appeals are against the award dated 10-10-1995 whereby the Tribunal has passed the award against the appellant and in favour of applicants Babu Singh, Dharam Singh and Dhood Singh, each of whom has filed separate claim petition. The claim of claimant Babu Singh was for ₹ 2,46,000/-, claim of Dharam Das was for ₹ 1,75,000/- and claim of Dhood Singh was for ₹ 1,18,600/-. The Tribunal awarded ₹ 53,000/- to claimant Babu Singh, ₹ 53,226/- to Dharam Das and ₹ 20,000/-to Dhood Singh.

2. Brief facts with respect to filing of these claim petitions are that the claimants were travelling in the bus No. RJ 14 P 2212 of the appellant. The bus was being driven by Nathu Ram and another bus No. RJ 14 P 2264 came with high speed and caused the accident. A criminal case No. 11/95 was registered and the police filed the challan. After narrating the facts in respect of the age, business and entitlement of the claimants, the claimants claimed the above amount. The appellant submitted reply to the claim petitions as well as the driver Nathu Ram also submitted reply to the claim petitions. The Tribunal framed issues and recorded statements of Babu Singh, Dharam Das and Dhood Singh and the non-claimant produced witness Nathu Ram. The documents were also placed on record.

3. The learned Tribunal decided issue No. 1 in favour of the claimants. Issue Nos. 2, 3

and 4 were decided in favour of the claimants partly and the tribunal determined the amounts of award. Aggrieved against the order of the learned tribunal, the appellants preferred these appeals. 3A. The learned counsel for the appellants vehemently submitted that the learned Tribunal has committed serious illegality in awarding the compensation for the goods which are alleged to have been carried by the claimants with the while travelling in the bus. According to the learned counsel for the appellants even the claim with respect to the goods of the passengers in not maintainable and, therefore, the award, which has been granted for the loss of goods, deserves to be set aside and also submitted that the claimants failed to prove the loss of goods and also failed to prove that they were carrying the goods with them.

4. The learned counsel for the respondent-claimants submitted that the claimants were rightly awarded the claim for the loss of the goods as they were the passengers in the bus. According to the learned counsel for the respondents, the loss of the goods is due to the direct result of the accident only and there is no other reason for the loss of the goods of the claimants.

5. I perused the statements of the claimants Babu Singh. Dharam Das and Dhood Singh.

6. The claimant Babu Singh stated on oath that he was travelling in the bus and he was carrying a suit case which was lying on the place provided for keeping the luggage. In the suitcase, there were four pants and four shirts and other cloths were also there. According to the claimant the value of the above goods were ₹ 10,000/-. There were dresses of the children in the suitcase. He stated that he was not found the above suitcase after the accident, was having a gold chain costing to ₹ 4000/- to ₹ 5000/-. In accident he became unconscious. The claimant Dharam Das stated that he was having his suitcase with a cash of ₹ 9000/- in the above suitcase along with four pants and four shirts and other clothes along with one tape-recorder and he lost all those goods. The total loss including cash was ₹ 15,000/-. The claimant Dhood Singh also stated that he was having his suit case containing his clothes having value of ₹ 1500/- and he could not find one watch which he was wearing. According to him, the cost of the goods were ₹ 2000/- whereas the cost of the watch was ₹ 500/-. In cross examination, the appellant and the non-claimants have not cross-examined the

claimants with respect to loss of their goods. Even the witness produced by the non-applicant Nathu Ram who was the driver has not stated any thing about the loss of the goods of the passengers.

7. When there is a positive evidence of the claimants and there is no cross-examination by the non-claimants including the appellant then there is no reason to disbelieve the statements of the claimants. In claim cases, strict proof of loss of goods is not required in the peculiar facts because the passengers travelling in the bus normally can have luggage with them particularly when passengers were travelling long journey. It is also an admitted fact that the bus was on the route from Ahmedabad to Jodhpur. The claimants, in their claim petitions, specifically pleaded about the loss of their goods for which there is no specific denial of the non claimants. Therefore, the loss of the goods has been proved by the claimants. The reason given for the loss of the goods is that in the accident, the claimants suffered injuries and no care was taken by any body on behalf of the owner or the driver to safeguard the goods of the passengers, the naturally this is the accident because of which the claimants suffered the loss .

8. In the judgment cited by the learned counsel for the appellants delivered in the case of *General Manager, Kerala State Road Transport Corporation v. Saradamma* ¹ it was held by the Kerala High Court that the direct damage to property alone is taken by the words "damage to the property " and observed that if there is any claim for damages suffered by the owner of motor vehicle which was involved in an accident, apart from the claim for damage to the vehicle itself then that will have to be preferred before a civil Court and the Motor Accidents Claim Tribunal has no jurisdiction to entertain such claim. This was a matter of a claim filed by the proprietor and owner of the bus and was not a claim filed by third party. Therefore, this case has no application to the facts of this case.

9. Another judgment cited by the learned counsel for the appellant is delivered by the Allahabad High Court in *Sushila Pandey v. New India Assurance Company Ltd.* ² which deals with the factors to be taken into consideration for awarding special damages and general damages. Here in this case, the special damages have been proved by the claimants and it is not a case of general damages.

10. Another judgment relied upon by the learned counsel for the appellants is the judgment delivered by the Madras High Court reported in *Pallavam Transport*

Corporation Ltd. v. Sureddy Seethamma,³ wherein it was held that the claim for the loss of the property can be filed in the civil Court. That judgment has no application to the facts of the present case.

11. The appellants have challenged the judgment of the learned Tribunal only with respect to the award of the compensation for the loss of the goods and no other point has been pressed.

12. In view of the above discussion, there is no force in these appeals and the same are hereby dismissed.

Appeals dismissed.

Cases Referred.

1. 1987 ACC CJ 926
2. 1983 ACJ 525
3. 1992 ACC CJ 557