

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2174 of 1985

to

FIRST APPEAL No 2176 of 1985

For Approval and Signature:

HON'BLE MR.JUSTICE J.N.BHATT  
and  
HON'BLE MR.JUSTICE M.H.KADRI

- =====
1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the concerned : NO  
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

BHAVNABEN WD/O.SURESHCHANDRA ALIAS SURESHKUMAR K CONTRACTOR  
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Appearance:

MR MD PANDYA for the appellant in all the three  
appeals

None appears for Respondent No. 1

NOTICE SERVED for Respondent No. 2  
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CORAM : HON'BLE MR.JUSTICE J.N.BHATT

and

HON'BLE MR.JUSTICE M.H.KADRI

Date of decision: 29/11/2003

(Per : HON'BLE MR.JUSTICE J.N.BHATT)

COMMON ORAL JUDGEMENT

1. In this group of three appeals, common questions are involved and arising out of the common judgment and awards arising out of the common accident. These three appeals under Section 110-D of the Motor Vehicles Act, 1939, are arising out of M.V.Claim Petitions Nos. 159 of 1983, 160 of 1983 and 230 of 1983, which came to be decided by the Motor Accident Claims Tribunal, Valsad at Navsari, by the common judgment and three awards dated 20th April 1984.

2. The unfortunate accident occurred on 10th June 1983. One Sureshkumar Kashiram was riding a motorbike and one Rajeshkumar Modi was sitting on the pillion of the motorbike. They were coming back to Bilimora town from Chikhli side. At that time, one S.T. Bus No.GRT 8386 driven by the original opponent No.2, driver, came with excessive speed and collided with the motorbike, as a result of which, the rider of the motorbike sustained injuries and succumbed to the same, whereas the pillion rider escaped a major mishap, but sustained injuries. Three claim petitions came to be filed - one by the mother of the deceased, Sureshkumar Kashiram, the other by the widow of the deceased, Sureshkumar Kashiram, and, for personal injury, the pillion rider filed M.V.Claim Petition No.160 of 1983. On behalf of the S.T. Corporation, the accident is not disputed, but, the liability is seriously disputed. It was the case of the S.T. Corporation that the accident occurred on account of rash and negligent driving on the part of the motor-cyclist.

3. Upon consideration and assessment of the evidence, the Tribunal found that the driver of the S.T. Bus was fully accountable for the accident, and he was solely rash and negligent and responsible for the accident in question. The deceased Sureshkumar Kashiram was running a business and dealing in motorbike spare-parts. He was a young man of 31 years, and an earning member of the family. The Tribunal, considering the facts and circumstances, awarded an amount of Rs.1,42,000/- by way of compensation. The Tribunal

assessed dependency of the mother at Rs.22,000/-. Therefore, the Tribunal awarded Rs.1,20,000/- to the widow of the deceased Sureshkumar Kashiram, and awarded remaining amount of Rs.22,000/- to the mother, considering dependency and utility of the deceased to individual petitioners.

4. In so far as the case of personal injury is concerned, the claimant, Rajeshkumar Modi, who was sitting on a pillion, at the relevant time, of the motorbike, sustained serious injuries. He had a fracture on mandible bone. He was shifted to a private nursing home where he was kept as an indoor patient for 15 days and, considering the period of treatment, nature of injury, and the loss of income, the Tribunal awarded an amount of Rs.20,000/- by way of compensation for the injuries sustained by him.

5. The contention advanced by the learned advocate, Mr. M.D. Pandya appearing for the appellant that the Tribunal has committed serious error in fixing the liability of the happening of the unfortunate accident solely on the driver of the bus, was not accepted by the Tribunal assigning the reasons in the impugned judgment. We have also considered the facts and circumstances and the impugned judgment of the Tribunal. In our view also, the conclusion of the Tribunal in fixing the entire liability on the part of the driver of the S.T. Bus is quite justified, requiring no interference. The amount of compensation awarded by the Tribunal to the widow and the mother as well as the injured could not be said to be or could not be found to be in any way excessive, requiring our interference in exercising our powers under Section 110-D of the Motor Vehicles Act, 1939. We are, therefore, of the opinion that all the three appeals are without merit, and the impugned awards arising out of the common judgment have remained unimpeachable.

6. The appeals, therefore, shall stand dismissed with no order as to costs.

(J.N. Bhatt, J.)

(M.H. Kadri, J.)

(swamy)