

SMT. LAXMIBAI

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v

KARNATAKA STATE ROAD TRANSPORT CORPORATION,
BANGALORE

MAY 11, 2001

B

[D.P. MOHAPATRA AND SHIVARAJ V. PATIL, JJ.]

Motor Vehicles Act, 1988 :

Karnataka State Road Transport Corporation—Bus driven in high speed and in a rash and negligent manner—Door glass broken due to stone throw—Broken glass piece hitting a travelling passenger in eye—Injury resulting in visual disability—Claim—Oral and documentary evidence supporting the case of appellant—Respondent corporation withholding documentary evidence in its possession—Tribunal gave a finding that the bus was involved in the accident and awarding compensation—High Court setting aside the award and holding that bus was not involved in the accident—Appeal before Supreme Court—Held the Tribunal was quite justified in recording a finding that the bus was involved in the accident—The approach of the High Court was technical and thrust was wrong in appreciating the evidence inasmuch as it was on niceties.—The impugned judgment of the High Court is set aside—The judgment and award of the Tribunal is restored.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3868 of 2001.

From the Judgment and Order dated 30.11.99 of the Karnataka High Court in M.F.A. No. 2873 of 1997.

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V.N. Raghupathy for the Appellant.

P.R. Ramasesh for the Respondent.

The following Order of the Court was delivered :

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Leave granted.

This appeal is directed against the judgment and award passed by the High Court of Karnataka and the claimant is the appellant. The appellant was travelling in a KSRTC bus bearing No. CAF 3590 on 26.2.1989. The bus was

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- A driven in high speed and in a rash and negligent manner; when the bus reached Ningadahalli village, passed through a pit on the road, the appellant sustained an injury on right eye as a broken glass piece of windo-pane hit her eye resulting in visual disability to the extent of 35%. She filed a claim petition before the Motor Accident Claims Tribunal seeking compensation.
- B The Tribunal passed an award granting Rs. 53,500 alongwith interest @ 9%. On Appeal by the respondent, the High Court by the impugned judgment set aside the award passed by the Tribunal. Hence this appeal.

- C The defence of the respondent before the Tribunal was that the said bus was not at all involved in the accident. The Tribunal on the basis of evidence recorded a finding that the bus was involved in the accident. Before the High Court, the only question that came up for consideration was whether the motor accident occurred at all as alleged.

- D The learned counsel for the appellant urged that the Tribunal, on the basis of evidence, both oral and documentary produced in support of the case of the appellant and withholding of the documentary evidence by the respondent was right in holding that the bus was involved in the accident; the High Court gave undue emphasis to technicalities and niceties and arrived at a wrong conclusion that the bus was not involved in the accident. The learned counsel for the respondent argued supporting the impugned judgment.

- E The appellant (PW-1), one Ramchandra Gandhale (PW3), an independent witness who was travelling in the said bus, have spoken in support of the claim. Exbt. P/4 is the case-sheet which shows that the appellant was admitted in the hospital on 27.2.1989. History in the case-sheet reads:

- F "While travelling in a Bus, Bus door glass broken due to stone throw and glass pieces fallen in right eye two days back."

- G The Tribunal found that the respondent did not produce copies of the log-sheet and control charts to show that the bus in question was not plied on that road on the date of the accident and the said bus was not involved. Thus on a proper appreciation of evidence, the Tribunal was quite justified in recording a finding that the said bus was involved in the accident. But we find that the approach of the High Court was wrong in appreciating the evidence in as much as it was technical and thrust was on niceties.

- H When there were both oral and documentary evidence supporting the case of the appellant, which was accepted by the Tribunal, in our view, the

High Court Clearly committed an error in reversing the judgment and award A of the Tribunal particularly when the respondent withheld the documentary evidence in its possession. The High court agreed with the Tribunal as far as quantum of compensation is concerned. Hence, we find it difficult to sustain the impugned judgment. Consequently, we set aside the same and restore the judgment and award of the Tribunal. The appeal is allowed B accordingly. No costs.

T.N.A.

Appeal allowed.