

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)
No(s).9636/2009

(From the judgement and order dated 28/11/2008 in FAFO No.
1092/2007 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

U.P.STATE ROAD TRANSPORT CORP. Petitioner(s)

VERSUS

COMPOTAR Respondent(s)

(With appln(s) for substitution and prayer for interim relief
and office report)

Date: 07/01/2010 This Petition was called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)

Ms. Garima Prashad,Adv.
Mr. Shadab Khan,Adv.

For Respondent(s)

Ms. Sharmila Upadhyay,Adv.
Mr. Shiv Mangal Sharma,Adv.
Mr. Abhishek Thakur
Ms. Abhinandni Sharma,Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(V.K. TIWARI)
P.A.

(MITHILESH GUPTA)
COURT MASTER

(Signed order is placed on the file).
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2010
(Arising out of SLP(C) No. 9636 of 2009)

U.P. State Road Transport Corporation ... Appellant (s)

Versus

Compotar ... Respondent (s)

O R D E R

1. Leave granted.

2. This is an appeal for setting aside the judgment of the Division Bench of Allahabad High Court whereby it dismissed the first appeal preferred by Regional Manager, U.P. State Road Transport Corporation, Agra (hereinafter described as 'the Regional Manager') against award dated 16.1.2007 passed by Motor Accident Claims Tribunal, Mathura (for short, 'the Tribunal') in M.A.C. Case No.431/2005.

3. A perusal of the record shows that the Tribunal had passed an award for payment of compensation of Rs.8,11,351/- to the respondent along with interest at the rate of 6% from 9.12.2005 i.e., the date of filing of the petition till the date of actual payment.

4. The Regional Manager challenged the award of the Tribunal by filing an appeal under Section 173 of the Motor Vehicles Act, 1988. He also applied for stay. By an order dated 19.4.2007, the Division Bench of the High Court directed the Regional Manager to deposit the entire amount awarded by the Tribunal. That order was set aside by this Court in C.A. No. 1868/2008 with a direction to the High Court to reconsider the prayer for interim relief. After remand, the High Court dismissed the appeal on the ground that the Regional Manager was not competent to file appeal because he was not owner of the offending vehicle.

5. We have heard learned counsel for the parties. In our opinion, the High Court committed a serious error by dismissing the appeal only on the ground that the Regional Manager was not competent to file the appeal ignoring the fact that he was impleaded as the sole non-applicant in the claim petition. In any case, the High Court should have, after coming to the conclusion that the appeal could be filed only by the State Road Transport Corporation, given opportunity to the appellant herein to amend the memo of appeal and decided the matter on merits.

6. For the reason stated above, the appeal is allowed. The impugned judgment is set aside. The State Road Transport Corporation is ordered to be impleaded as appellant in First Appeal from Order No. 1092/2007. The High Court shall now dispose of the appeal on merits. The amount deposited by the appellant with the Tribunal shall be disbursed to the respondent without delay subject, however, to final disposal of the appeal.

.....J.

[G.S. Singhvi]

.....J

[Asok Kumar Ganguly]

