

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal.No.741/1997

PALLAVAN TRANSPORT CORPORATION LTD. APPELLANT (S)

VERSUS

M. JAGANNATHAN RESPONDENT (S)

(With office report)

Date : 14/11/2000 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MRS. JUSTICE RUMA PAL

For Appellant (s) Mr. P.R. Kovilan, adv.
Mr. T. Harish Kumar, adv.
Mr. V. Ramasubramaniam, adv.
Mr. V. Krishna Murthy, adv.

For Respondent (s) Mr. V. Balachandran, adv.
Mr. Senthil Jatgadesan, adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

The appeal is dismissed with costs.

.SP1

.SP1

(Ganga Thakur) (V.P. Tyagi)
P.S.to Registrar Court Master.

@@

A

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 741 OF 1997@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

Pallavan Transport Corporation Ltd.

Appellant

Versus

M. Jagannathan

Respondent

O R D E R@@
CCCCCCCC

L.....L.....I.....T.....T.....T.....T.....T.....J
.SP2

This appeal is by Pallavan Transport Corporation Ltd. challenging the order passed by High Court granting compensation to the claimant to the tune of Rs.4,50,000/- out of the claim of Rs.6,00,000/-. The main contention on behalf of the appellant is, the High Court fell into error in coming to the conclusion that driver was negligent in driving the bus which met with an accident injuring the claimant. The other submission is, the grant of compensation is excessive.

The incident occurred on 21st June, 1990 when the respondent travelled in a bus run by the appellant. The case of the appellant is, while the bus was proceeding slowly during the traffic jam, the respondent attempted to get down from the bus and in the process injured his left leg which had to be amputated. The submission is, the claimant got down from the bus not at any bus stop but when the bus was proceeding from the Flower Bazar Police Station towards Parrys Corner.

The respondent filed claim petition alleging, when the bus was proceeding near Anderson Street bus

:2:

stop, because of traffic jam the bus stopped and then the conductor asked the passengers to get down and it is only then when respondent was getting down, the driver, all of sudden started the bus in a high speed in a rash and negligent manner which resulted into the fall of the claimant resulting the wheel of the bus running over the leg of the petitioner. The Tribunal after considering evidence of the parties held that the accident occurred because claimant fell down while getting down from the moving bus, which would not constitute any negligence on the part of the driver or conductor. Accordingly, the claim petition was dismissed but granted compensation of Rs.12,000/- towards no fault liability. The respondent preferred an appeal, the High Court set aside the findings of the trial court and held the compensation cannot be denied to the victim on the facts and circumstances of this case. The High Court records, there is general tendency of the passengers, which is well known that in case bus stops for traffic jam or for some other reason between two bus stops the passengers who have to set down at some nearby place do start getting down, hence the conductor and the driver have to be more careful before restarting the bus. Finally the High Court held, the accident occurred on account of negligence of the conductor and the driver resulting into injury to the claimant and thus awarded compensation to the tune of Rs.4,50,000/-. Aggrieved by that, the appellant has filed the present appeal.

The question for consideration is, as usually in

.PA

:3:

such cases, whether on the facts and circumstances of this case, conductor and driver were negligent or not which resulted into injury of the claimant. The Tribunal relying on the statement of the conductor, according to which when the bus was slowly moving due to the traffic congestion, the passengers in spite of his warning were getting down from the bus, taking advantage of the slow moving of the bus resulting into the accident which cannot be construed any negligence by the conductor or driver.

The High Court while considering this question believed the following statement of the claimant P.W. 1:

The conductor told the passengers who are to go to Parrys Corner to get down here itself. Seven passengers got down before me. My friends who came with me also got down. We got down from the front gate of the bus. When I was getting down suddenly the driver took the bus. I slipped and fell down.

According to the statement the conductor told the passengers who are to go to Parrys Corner to get down here itself, claimant further states, in fact seven passengers got down before him and when he was getting down, suddenly the driver started the bus he skipped down. If this be so, which the High Court has believed, the question is if passengers were led by what the conductor told the passengers, then restarting the bus without taking any care that all such passengers got down

.PA

:4:

would constitute negligence both on the part of the conductor and the driver. It is always important to have coordination between the conductor and the driver, whenever passengers start getting down or are led to get down, to see that before any signal is given by the conductor, in any form, as normally there is bell in most of the buses which conductor rings signaling the driver to start the bus, the driver should not restart the bus. In the absence of coherence or lack of coordination between the two it is bound to result into accident, which has happened in the present case. This would constitute to be a negligence on the part of both the conductor and the driver. Once this evidence is accepted, which has been in this case, there is no scope to reassess the evidence in the present proceedings, about which attempt has been made, unless it can be said, this finding is based on no evidence or is perverse. Learned counsel for the appellant submitted with vehemence and attempted to take us to the evidence to show that there was no negligence on the part of the driver. However, as we have said, it is not proper for this Court to reassess the evidence and even if another view is possible, this Court would not do so in a proceeding under Article 136 of the Constitution of India. In the present case we further find, as per evidence of P.W.1, that he was getting down from the front gate of bus, which is almost adjacent to the driver. If that be so, there is no difficulty for the driver to take this much of care, even if the version of

.PA

:5:

R.W.1 is accepted, to restart the bus suddenly when the passengers were getting down. For all these reasons, we do not find any error committed by the High Court in recording the finding that there was negligence on the part of the conductor/driver.

The next submission is about the quantum of compensation. Learned counsel for the appellant took us to ground Nos. 9 and 10 in the SLP to submit that the grant of compensation was on a higher side. Out of the two grounds the first is that the High Court has not given any reason for arriving at the compensation and secondly in any case no details are given as to how this compensation amount to Rs.4,50,000/- was arrived at. We have perused the order passed by the High Court. The High Court after recording the various items of the claim has considered and given the reasons for arriving its conclusion. In fact the contention on behalf of the appellant before the High Court that the claim is on the higher side was considered and accepted. The various claims made by the claimant were considered. Some of which were accepted some of which were not accepted. Finally, High Court reduced the compensation by Rs.1,50,000/- for arriving at the figure of Rs.4,50,000/- hence it cannot be said that the High Court has not given any reason or considered the various break up to arrive at the figure. What is to be seen is, whether the court has applied its mind on the various items. In the present case, apart from giving the reasons, the High Court has considered the various items of the claim.

.PA

:6:

On overall consideration we do not find it to be a fit case to interfere even on the grant of compensation. This is a case where the claimant has lost his one leg with 85% disability with the possibility of cent per cent loss. In view of this such persons life is completely changed. He is a new man, he has to live a new life, new venture hence we do not find any error in the impugned order to interfere with it. Hence for the said reasons, we decline to interfere with it. Accordingly, this appeal is dismissed with costs.

.....J
(A.P. Misra)

New Delhi,
November 14,2000.

.....J
(Ruma Pal)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.741 OF 1997 @@
CCCCCCCCCCCCCCCCCCCCCCCCCCCC

PALLAVAN TPT. CORPN. LTD. ...APPELLANT (S)

VERSUS

M. JAGANNATHAN ...RESPONDENT (S)

O R D E R@@
CCCCCCCC

.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

This appeal is by Pallavan Transport Corporation Ltd. challenging the order passed by the High Court granting compensation to the claimant to the tune of Rs. 4,50,000/- out of the claim of Rs.6,00,000/-. The main contention on behalf of the appellant is the High Court fell into error in coming to the conclusion that driver was negligent in driving the bus which met with an accident injuring the claimant. The other submission is the grant of compensation is excessive.

The incident occurred on 21st June,1990 when the respondent travelled in a bus run by the appellant. The case of the appellant is while the bus was proceeding slowly during the traffic jam, the respondent attempted to get down from the bus and in the process injured and his left leg had to be amputated. The submission is the

.PA

:2:

claimant got down from the bus not any bus stop but when the bust was proceeding from the Flower Bazar Police Station towards Parrys Corner.

The respondent filed claim petition alleging that when the bus was proceeding from Flower Street bus stop, because of traffic jam the bus stopped and then the conductor asked the passengers to get down and it is only then when respondent was getting down, the driver, all of sudden started the bus in a high speed in a rash and negligent manner which resulted into the fall of the claimant and its wheel ran over the leg of the petitioner. The Tribunal after considering evidence of the parties held that when the accident occurred he fell down while getting down from the moving bus. Hence there was no negligence on the part of the driver or conductor. Accordingly the claim petition was dismissed but granted Rs.12,000/- towards no fault liability. The respondent preferred appeal in the High Court setting aside the findings of the trial court and held the compensation cannot be denied to the victim on the facts and circumstances of this case. The High Court further records the general tendency of the passengers, which is well know that in case bust stops for traffic jam or some

.PA

:3:

other reason between two bus stops the passengers who are nearby place to go gets down at that point of time hence the conductor and the driver should be more careful before restarting the bus. Finally the High Court held the accident occurred on account of negligence of the conductor and the driver resulting into injury to the claimant and awarded compensation to the tune of Rs.4,50,000/- . Aggrieved by that the appellant filed the present appeal.

The question for consideration is, as usually in such cases whether, on the facts and circumstances of the case, conductor and driver were negligent or not which resulted into injury of the claimant. The Tribunal relied on the statement of the conductor according to which the bus was slowly moving due to the traffic congestion all the passengers in spite of his warning got down from the bus taking advantage of the slow moving of the bus resulting into accident which cannot be construed to be negligence by the conductor or driver. The Tribunal held that the main accident took place while the petitioner was getting down from the moving bus.

.PA

:4:

The High Court while considering this question relied on the statement of the claimant P.W. 1 to the following:-

.SP1

'The conductor told the passengers who are to go to Parrys Corner to get down here itself. Seven passengers got down before me. My friends who came with me also got down. We got down from the front gate of the bus. When I was getting down suddenly the driver took the bus. I slipped and fell down.'

.SP2

According to the statement the conductor told the passengers who are to go Parry Corner to get down here itself he further states in fact seven passengers got down and when the claimant was getting down suddenly the driver started the bus hence, skipped down. According to his version the passengers started getting down after the conductor told the passengers to do so then restarting the bus when taking care were ascertained that all the passengers got down could constitute to the negligence on the part of the conductor and the driver. It is between the conductor and the driver whenever passengers starts getting down or directed to get down to see that before signal is given by the conductor in some form normally it is the bell in most of the buses the driver if it starts which accounts for slipping down of

.PA

:5:

some passengers would constitute to be a negligence on the part of the driver. Once this evidence is accepted it is not open for the appellant to rely on the statement of the conductor finally recorded by the High Court. It cannot be said this finding is based on no evidence or is perverse. Learned counsel for the appellant submitted with vehemence to take us to the various evidence on

record for counselling that there was no negligence on the part of the driver. However, it is not proper for this Court to reassess the evidence and even if another ...is possible this Court would not do so in a proceeding under Article 136 of the Constitution. In the present we further find as per evidence of P.W. 1 he was getting down from the front gate of bus which is almost adjacent to the driver. If that be so there is no difficulty for the driver to take this much of care, even if the version of R.W.1 is accepted, to start the bus even in a jam when the passengers are getting down hence for all these reasons, we do not find any error committed by the High Court in recording the finding that there was negligence on the part of the conductor/driver.

The next submission placed on behalf of the

.PA

:6:

learned counsel for the appellant is about the quantum of compensation. He has taken us to ground Nos. 9 and 10 in the SLP to submit that the grant of compensation was on a higher side. The two grounds are first, that the High Court did not give any reason for arriving at this compensation and secondly not making any details as to how the compensation amount to Rs.4,50,000/- arrived at. We have perused the order passed by the High Court. The High Court after recording the various items of claim made by the claimant has considered and given his reasons for arriving at the said conclusion. In fact the contention on behalf of the appellant before the High Court that the claim is on the higher side was accepted. In fact to the various claims pointed out it is accepted some of the items to show the claim to the extent is not justified and reduced the said amount. However, looking to the overall situation, the High Court that the High Court think it proper to reduce the compensation by Rs.1,50,000/- for arriving at the figure of Rs.4,50,000/- hence it cannot be said that the High Court has not given any reason and has not given break up to arrive at this figure. What is to be seen is whether the court has applied its mind on the various items. In the present

.PA

:7:

case, apart from the reasons the High Court has considered the various items of the claim made by the claimant. It is not in detail as has been submitted on behalf of the appellant. On overall consideration we do not find it to be a fit case to interfere even on the grant of compensation. This is a case where the claimant has lost his one leg with 85% disability with the possibility of cent per cent loss. In view of this a person is a man he has to live a new life, new venture and in this back ground we do not find any reason to interfere. Hence for the said reasons, we decline to interfere with the impugned order. Accordingly, it is dismissed.

Costs on the parties.

.SP1

.....J
(A.P. MISRA)

New Delhi,
November 14, 2000.

.....J
(RUMA PAL)