

\220!ITEM NO.49

Court No.3 SECTION XI
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).27371/2008

(From the judgement and order dated 29/07/2008 in FAFO No. 2216/2008
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

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

VERSUS

GEETA DEVI & ORS. Respondent(s)

(With appln(s) for exemption from filing O.T.,paper publication of
notice and prayer for interim relief and office report))

Date: 18/01/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Ms. Garima Prashad,Adv.
Ms. Neha Goyal,Adv.

For Respondent(s)

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

Leave granted.

(Ganga Thakur)
PS to Registrar

(Juginder Kaur)
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.27371 /08)

U.P.ROAD TRANSPORT CORP. .APPELLANT (S)

Versus

GEETA DEVI & ORS. ..RESPONDENT (S)

O R D E R

Despite service of notice by way of publication
as also by way of dasti, the respondents have chosen
not to contest the Special Leave Petition when it is

taken up for consideration.

Leave granted.

The appeal is on behalf of the Uttar Pradesh

Road Transport Corporation which has questioned the judgment and order dated 10th April, 2008, passed by the Motor Accident Claims Tribunal, Azamgargh, on the ground that the mother of the deceased had proceeded with a Claim Petition in the Civil Court, which was rejected and that the wife of the deceased had also filed a Claim Petition before the Tribunal, which was treated as not pressed. The said contention of the appellant herein was rejected by the High Court. However, while dismissing the appeal, the High Court went into a question which was not available in the appeal which had been filed by the Corporation. The

-2-

said question relates to contributory negligence on the part of the deceased. From the order as impugned, there is nothing to indicate as to what caused the High Court to alter the finding of the Tribunal with regard to the contributory negligence, which had been attributed to the deceased, when notice was issued in this matter.

The notice was confined only to the said question. As indicated hereinabove, there is no appearance and there is nothing also on record to show how the High Court absolved the deceased of any contributory negligence on his part.

We, therefore, have no option but to direct that while confirming the judgment of the High Court in appeal as far as the other two issues are concerned, the observations relating to contributory knowledge have to be deleted.

We, accordingly, allow the appeal to the

aforesaid extent and set aside the findings relating
to contributory negligence, and the directions given
on the basis thereof are set aside.

(ALTAMAS KABIR)J.

.....J.
(CYRIAC JOSEPH)

New Delhi,
January 18, 2009.