

SMT . LAXMIBAI

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V.

KARNATAKA STATE ROAD TRANSPORT CORPORATION ,
BANGALORE

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MAY 11 , 2001

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[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 ..

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 .

1 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

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 .

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
 C 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 .

The learned counsel for the appellant urged that the Tribunal , on the basis of evidence , both oral and documentary produced in support of the
 D 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 .

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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 :

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

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 .
 G 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 .

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When there were both oral and documentary evidence supporting the
 H 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 .