



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 2368 of 2013

**With
R/CROSS OBJECTION NO. 136 of 2013
In
R/FIRST APPEAL NO. 2368 of 2013**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI

=====		
Approved for Reporting	Yes	No
		No
=====		

DIVISIONAL CONTROLLER- MEHSANA

Versus

**MUNNI SULTANSINGH GURJAR THRO'MUNNI SULTANSINGH GURJAR &
ORS.**

=====

Appearance:

MR HARDIK C RAWAL(719) for the Appellant(s) No. 1
ADVOCATE NOTICE UNSERVED for the Defendant(s) No. 1,2,3,4,5,6,7
RULE SERVED for the Defendant(s) No. 8

=====

CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 07/09/2026

JUDGMENT

1. This appeal under section 173 of the Motor Vehicles Act is at the instance of GSRTC challenging the judgment order dated 17.01.2013 passed in MACP No.969 of 1996, by which learned City Civil and Sessions Court, Ahmedabad was pleased to grant the compensation of Rs. 11,21,000/- with 7.5% annual interest from the date of the filing of the claim petition till realization.

2. By order dated 04.09.2013, the appeal was admitted. The claimants have filed Cross Objection which was admitted on



14.10.2013. The learned advocate representing claimants has been elevated to the Bench; therefore, advocate notice was issued to the claimants, but those notice were not served and returned with the remarks 'insufficient address'

3. The claimants who are legal representatives of the deceased Sultan Singh Gurjar, filed claim petition under section 166 of MV Act claiming compensation of Rs.10 lakh with 12% interest from the date of the filing claim petition till realization inter-alia on the ground that the deceased Sultan Singh was riding loading tempo No.GJ-18-U-4316 on 06.09.2006 from Kadi after loading the oil tines to deliver the same. When he reached near Ghago cross road going towards village Gojariya, he was dashed from behind by ST bus No.number GJ-18-V-9255 driven by opponent No.1. He was firstly taken to the Civil Hospital, Mehsana but was declared dead. The FIR of the incident was registered with Kadi Police Station vide C.R. No.I-214 of 2006.

4. It is claimed that the deceased Sultan Singh was 36 years old. He was hale and healthy and was earning Rs. 8,000/- to 9,000/- per month by driving loading tempo. Amongst claimants, claimant No.1 was widow, claimant Nos.2 to 5 were children and claimant no.6 and 7 were parents. On this factual grounds claim petition was filed. Since notice was issued in the claim filed by the claimant, opponent No.1 despite being served did not come forward to file reply. Opponent No.2 filed reply at Exh.15-A and denied the negligence of the driver of the ST bus, and further mount the liability upon the deceased Sultan Singh in causing the road accident.



5. The learned Tribunal framed issues at Exh.16 and referred to and analyzed the evidence on record to assess the contributory negligence of the deceased to 10% and granted the compensation in aforesaid terms.

6. Being aggrieved, the ST Corporation has filed this appeal, and claimants have filed Cross Objection.

7. The ST Corporation mainly filed the appeal on the ground of lesser percentage of contributory negligence attributed to the claimant, whereas the claimant filed the Cross Objection to remit the contributory negligence attributed to the deceased.

8. Having heard learned advocate Mr. Raval appearing for the ST Corporation, the fact emerging from the evidence remains that accident took place between loading rickshaw and ST bus driven by the opponent. ST bus has dashed the loading rickshaw from behind.

9. The issue of contributory negligence is discussed by the learned Tribunal in para 13 of the impugned judgment and recorded that the deceased has suddenly taken right turn, whereby ST Bus driver could not avoid the collision, and as such accident took place. What further appears from the impugned judgment that the ST bus driver has not filed any written statement denying the claim petition. His deposition though has been led by the ST Corporation, but it is believed to be deposition of interested witness. The basic finding recorded by the learned Tribunal to attribute 90% negligence to the ST bus driver, is that ST bus driver was trying to overtake the tempo



ignoring the fact that width of the road is 10 feet only, and at the time of accident when he was overtaking the loading tempo, no other vehicle was coming from the opposite side. These factual aspects has been considered by the learned Tribunal to attribute to 90% contributory negligence to the ST Bus driver and 10% contributory negligence has been attributed to the deceased on the ground that the deceased was required to take necessary steps or care to avoid the mishap. Moreover, it's a case where deposition of one of the driver of the offending vehicle has been examined.

10. In view of above, accordingly this Court, the learned Tribunal has rightly assessed the inter-se contributory negligence between the driver of two offending vehicles. Hence, the Appeal as well as Cross Objection does not merit

11. For the foregoing reasons, First Appeal and Cross Objection deserve to be dismissed and accordingly, they are dismissed. Impugned judgment and award is confirmed. Record and proceedings, if any, be send back to learned Tribunal forthwith.

SATISH

(J. C. DOSHI,J)