

CASE NO.:
Appeal (civil) 2823 of 2008

PETITIONER:
SRI KRISHNA VISHWESHWAR HEDE

RESPONDENT:
THE GENERAL MANAGER, K.S.R.T.C.

DATE OF JUDGMENT: 15/04/2008

BENCH:
CJI K.G. BALAKRISHNAN & R.V. RAVEENDRAN

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO.2823 OF 2008
(Arising out of SLP(C) No.24406/2004)

Leave granted. Heard learned counsel for the appellant.

2. The appellant claimed a compensation of Rs.5 lacs for injuries sustained by him in a motor accident on 9.8.1985, that is a collision between the motor cycle driven by him and a bus belonging to Karnataka State Road Transport Corporation (for short 'KSRTC'). The Tribunal by its judgment dated 4.1.2003 held that there was contributory negligence on the part of the appellant and fixed the responsibility for the accident in the ratio of 50:50 on the driver of the bus and the appellant. It assessed the total compensation as Rs.2,32,254/- . In view of the contributory negligence to an extent of 50%, it awarded a compensation of Rs.1,16,127/- with interest @ 8% per annum from the date of petition till the date of payment.

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3. KSRTC, the owner of the bus challenged the said award by filing an appeal. The High Court allowed the appeal in part, and increased the liability of the appellant for the accident to 75% and reduced the liability of the bus driver to 25%. Consequently, it arrived at the compensation as Rs.58,063/- and rounded it off to Rs.60,000/-. Feeling aggrieved, the claimant-appellant is before us.

4. We find that after detailed consideration of the evidence, the Tribunal held that both were liable and fixed the ratio of liability at 50% each. On the other hand, the High Court has modified the ratio by increasing the liability of appellant at 75% without much justification. On the facts and circumstances, we are of the view that the judgment of the Tribunal assessing the ratio of liability at 50:50 is proper and the High Court ought not to have interfered with it.

5. We therefore allow this appeal, set aside the judgment of the High Court and restore the judgment and award of the Tribunal.