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SooperKanoon Citation : sooperkanoon.com/377262

Court : Karnataka

Decided On : Dec-18-1970

Reported in : 1972CriLJ404

Judge : C. Honniah, J.

Appellant : Pyareian

Respondent : The State of Mysore

Judgement :
ORDER

C. Honniah, J.

1. The question in this case is whether the accused drove the vehicle in a public way in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or in-jury to any other person.

2. The facts which are not in dispute are these : On 5-3-1969 Bhimanna (P. W. 1) was driving his taxi bearing No. MYD 7866 from the side of Tumkur to Bangalore in the National High Way at about 11 p. m. When he came near the village called Peenva. which is close to Bangalore, he saw a lorry coming from the opposite direction. P., W. 1's evidence is that he slowed down the speed of his car because of the lorry corning from the opposite direction and shortly thereafter, the accused, who was driving the M. S. R. T. C. bus bearing No. M, Y. F. 6383 came from

behind and dashed against the right rear portion of the car causing damage.

3. According to the, accused, when he was proceeding towards Bangalore and when he came near Peenya village, he saw the taxi in question standing in the road on the left side and as he came nearer the taxi. P. W. 1. who was in the taxi, suddenly reversed the vehicle. He applied the brakes and in fact stopped the bus, but due to the movement of the car backwards, there was a collision between them, as a result of which the right portion of the taxi hit against the left side of the bus. with the result some damage was caused to the taxi. In these circumstances he contended that he neither drove the vehicle in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any other person. The Courts below have accepted the version of P. W. 1 and convicted the accused. Apart from the evidence of P. W. 1, no other person has spoken to the rashness or negligence attributed to the accused. P. W. 1 could not have been in a position to see whether the accused was driving the vehicle rashly or negligently as he was seated in his car and was proceeding towards Bangalore. In using the highway, one is not bound to foresee every extremity of folly which occurs on the road; equally he is certainly not entitled to drive on the footing that other users of the road, either drivers or pedestrians, will exercise reasonable care. He is bound to anticipate any act which is reasonably foreseeable, that is to say any thing which the experience of road users teaches them that people do albeit negligently. If the version of P. W. 1 is accepted, the accused is liable because it was a foreseeable emergency and the accused should have anticipated the car being slowed down when the other vehicle was coming in the opposite direction.

4. The human vision, although it is very remarkable, it cannot take in everything at the same time. The driver has to look not only in front, but. to right and left and in his mirror behind. But he cannot look at all these places at the same time. His primary duty is to look at the Dart of the road in which he is himself driving, which does not mean that he is absolved from keeping observation even in payments and in the other half of the road. It is a matter really of degree. It is not the case that at the time the opposite vehicle was just or about to pass the car. the accident took place. If after the vehicle that came from the opposite direction passed the car, then, it cannot be said that the driver of a taxi, in particular assuming that he

had slowed down the speed, was still moving slow at the time of the accident. It might well be that the vehicle driven by the accused, while over-taking the car. hit the right rear portion of the car. If that be so, the over-taking vehicle cannot be said to be driven rashly or negligently, because he could not have anticipated until too late that the car was slowing down or was being taken back,

5. In determining whether a person is negligent or rash, the standard of reasonable care is that which is reasonably to be demanded in the circumstances. The relevant circumstance to take into account may be the importance of the end to be served by acting in this way or that. As has often been pointed out, if all the vehicles running in the roads in this country were restricted to a speed of 5 or 10 miles per hour. there would be fewer accidents. But our national life would be intolerably slowed down. Therefore, the purpose to be served, if sufficiently important, justifies the assumption of abnormal risk. But that does not mean that the driver of a vehicle, who uses the high-way should take abnormal risk and drive in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or inquiry to any other person. The driver must be able to pull up within limits of vision, but each case must depend upon its own circumstances.

6. When we look at the consequences and see the results of an event we could say that the driving was in fact dangerous or otherwise. If the results of an event are very trivial, so far as the driver is concerned, against whom allegation of rashness is attributed it is not possible to impute to him not more than a mere error of judgment. Whether the case put forward by P. W. 1 is accepted or that of the accused the result seems to be that the driving of the accused, could be said to be an error of judgement at the most.

7. The main ingredient of Section 279 of the Indian Penal Code, for which the accused is held liable, is rash driving in a public way. Criminal rashness is hazarding a dangerous or wanton act with the knowledge that it is so and that it may cause injury, but without intention to cause injury or knowledge that it will be probably caused. The criminality lies in running the risk of doing such an act with recklessness or indifference as to the consequences. Looking at the consequences and the results of the event, it cannot be said that the accused

drove his vehicle rashly or negligently. The most probable thins that happened that night appears to be what has been stated by the accused. If that be so, he cannot be held liable for having driven his vehicle rashly or negligently.

8. For the reasons stated above. I allow this revision petition, set aside the conviction and sentence passed against the accused and acquit him.