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Jeet Lal Vs the State

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Court : Delhi

Decided On : Aug-03-2010

Judge : Mr. Shiv Narayan Dhingra, J.

Appeal No. : Crl. Revision 382 of 2010

Appellant : Jeet Lal

Respondent : The State

Advocate for Pet/Ap. : Mr. Vimal Puggal, Adv.

Judgement :

1. Whether reporters of local papers may be allowed to see the judgment? Yes.

2. To be referred to the reporter or not? Yes.

3. Whether judgment should be reported in Digest? Yes.

1. This revision petition under Section 397 read with Section 401 Cr.P.C has been preferred by the petitioner against the judgment dated 17th July, 2010 passed by Shri B.S. Chumbhak, Additional Sessions Judge, Delhi confirming the judgment dated 8th April, 2010 and order on sentence dated 16th April, 2010 passed by learned Metropolitan Magistrate convicting the petitioner under Section 279/304A IPC in case FIR No.115 of 1996 dated 24th February 1996.

2. The sole ground pressed by the counsel for petitioner is that the two courts below committed grave illegality in inferring negligence when there was no direct evidence of negligence of the petitioner.

3. It is an undisputed fact that the petitioner was driver of the truck at the time of accident. PW-5 and the deceased both were walking on foot alongside the road when this truck came from behind and hit the deceased from behind. The truck driver stopped the truck as public raised noise and he ran away from the spot after leaving the truck. The witness, with the help of police, took the injured to the hospital. The learned Metropolitan Magistrate and learned Additional Sessions Judge both came to conclusion in that since the truck driver had hit the deceased, a pedestrian from behind, negligence of the truck driver was apparent and stood proved.

4. It is argued by the counsel for the petitioner that the eye witness PW-5 had not deposed that the truck driver was negligent or was driving the truck in a negligent manner, therefore, there was no offence of negligence of the truck driver and the truck driver was wrongly convicted.

5. Every motor vehicle that comes out of the factory has some essential features and one the essential features of a motor vehicle is 'brake'. The brake is provided in the motor vehicle so that while driving the motor vehicle, the driver of the motor vehicle applies brakes to avoid any kind of collision between motor vehicle and other commuters/ objects. If the motor vehicle is running at a moderate say speed between 40- 50 kms/hrs, with the application of brakes, the vehicle gets stopped within a few feet and if the brake is applied with some force, the vehicle would stop instantly.

6. The pedestrians have a right to walk on the pedestrian way and if there is no pedestrian way, they have a right to walk on the side of the road. All motor vehicles drivers have a duty towards pedestrian and merely because a pedestrian is walking on the side of the road, no motor vehicle driver has a right to hit the pedestrian from behind. The very fact that the truck driver did not care for the persons walking ahead on the road and did not apply brakes to save the pedestrian walking on the road itself shows that the truck driver was negligent. It is

not the case of the petitioner that the deceased in this case had suddenly jumped before the truck. No suggestion was given to the witness that the deceased was not walking on the side of road or had suddenly come into the middle of the road in front of the truck. The negligence of motor vehicle driver who does not look ahead of the vehicle and does not bother to see the nature of traffic to keep appropriate speed so that the vehicle does not hit others, is writ large. Every motor vehicle driver is supposed to drive the vehicle in accordance with road conditions, traffic density and presence of pedestrians on the road. Where the traffic density is more and pedestrians are also walking on the road, the motor vehicle driver is supposed to drive in such a manner that he does not hit the pedestrian and the motor vehicle would stop immediately on application of brakes. If this caution of driving a vehicle in a proper manner is not taken, this would amount to negligence and if the motor vehicle hits somebody from behind, due to such driving or non-application of brake, this is criminal negligence.

7. I find no force in this revision petition. The petition is hereby dismissed with no orders as to costs.

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