

A

RAJASTHAN STATE ROAD TRANSPORT
CORPORATION, JAIPUR

v.

NARAIN SHANKER & ANR. ETC. ETC.

January 30, 1980

B

[V. R. KRISHNA IYER AND R. S. PATHAK, JJ.]

Motor Vehicles Act 1939, S. 110A and Constitution of India 1950, Article 41—Accident claim—State Transport Corporation—Duty of.

C

The respondents lost their limbs in a road accident while travelling in a bus belonging to the petitioner, a nationalised transport system. The plea by the operator to escape the liability for compensation was that the lights of the bus accidentally failed, which resulted in the accident. The Accidents Claims Tribunal negatived the plea and awarded compensation in sums far lower than were claimed by the respondents.

In the special leave petitions to this Court, the petitioner contested the application of the principle of *res ipsa loquitur* and the quantum of the claim.

D

Dismissing the petitions,

HELD : 1. (i) It was improper of the Corporation to have tenaciously resisted the claim. [868 A]

(ii) It was right on the part of the Tribunal to have raised a rebuttable presumption on the strength of the doctrine of *res ipsa loquitur*. [868 B]

E

2. The heads of claim have been correctly appreciated by the Tribunal and the awards have been moderate. [868 C]

3. Instead of indulging in wasteful litigation, it would have been more humane and just, if the Corporation had hastened compassionately to settle the claims so that goodwill and public credibility could be improved. [867 H]

F

4. The State has a paramount duty, apart from liability for tort, to make effective provision for disablement in cases of undeserved want—Article 41 of the Constitution states so. [868 A]

G

5. Nationalisation of road transport should have produced a better sense of social responsibility on the part of the management and drivers. One of the major purposes of socialisation of transport is to inject a sense of safety, accountability and operational responsibility which may be absent in the case of private undertakings whose motivation is profit making regardless of risk to life. [867 E-F]

H

6. Common experience on Indian high-ways disclose callousness and blunted consciousness on the part of public corporations which acquire a monopoly under the Motor Vehicles Act in plying buses. It is a pity that State Road Transport vehicles should become mobile menaces. [867 G]

CIVIL APPELLATE JURISDICTION : Special Leave Petition (Civil)
Nos. 6698-6700 of 1979.

From the Judgment and Order dated 25-10-1978 of the Rajasthan High Court in D. B. Civil Misc. Appeal Nos. 195, 196 and 197 of 1978.

Soli J. Sorabjee Soli. Genl. and Sobhagmal Jain for the Petitioner.
M. N. Shroff for the Respondent.

The Order of the Court was delivered by

KRISHNA IYER, J.—These three petitions for special leave relate to a road tragedy where many lost their limbs while travelling in a bus belonging to the nationalised transport system of Rajasthan. A flimsy plea was put forward by the operator to escape liability for compensation that the lights of the bus accidentally failed and thus the unfortunate episode occurred. Other embellishments were also set up for the purpose of exoneration. The Accidents Tribunal was not taken in and, having disbelieved the evidence, awarded compensation in sums far lower than were claimed by the victims.

Two contentions were raised and rightly over-ruled and they have been repeated in the Petition for special leave and we similarly reject them. The nature of the accident and the surrounding circumstances are such that the doctrine *res ipsa loquitur* was rightly invoked by the court. Indeed, the terrible accidents attributable to reckless driving and escalating year after year make our high-ways great hazards. One should have thought that nationalisation of road transport would have produced a better sense of social responsibility on the part of the management and the drivers. In fact, one of the major purposes of socialisation of transport is to inject a sense of safety, accountability and operational responsibility which may be absent in the case of private undertakings, whose motivation is profit making regardless of risk to life; but common experience on Indian high-ways discloses callousness and blunted consciousness on the part of public corporations which acquire a monopoly under the Motor Vehicles Act in plying buses. It is a thousand pities that our State Road Transport vehicles should become mobile menaces, and we should impress upon them the need to have greater reverence for human life representing, as they do, the value-set of the State itself.

In the present case, the State Corporation put forward a false plea and contested the application of the principle of *res ipsa loquitur* to avoid liability. It would have been more humane and just if, instead of indulging in wasteful litigation, the Corporation had hastened compassionately to settle the claims so that goodwill and public credibility could be improved. After all, the State has a paramount duty, apart

A from liability for tort, to make effective provision for disablement in cases of undeserved want—Article 41 of the Constitution states so. It was improper of the Corporation to have tenaciously resisted the claim. It was right on the part of the Tribunal to have raised a rebuttable presumption on the strength of the doctrine of *res ipsa loquitur*.

B The State Corporation has contested even the quantum of the claim. Indian life and limb cannot be treated as cheap, at least by State instrumentalities. The heads of claim have been correctly appreciated by the Tribunal and the awards have been moderate. Here again, the State Corporation should have sympathised with the victims of the tragic accident and generously adjusted the claims within a short period. What is needed is not callous litigation but greater attention to the efficiency of service, including insistence on competent, cautious and responsible driving.

C We have had the advantage of Shri Soli J. Sorabjee, who represented the Corporation with a characteristic sense of fairness, but we are unable to desist from making the above observations which are induced by the hope that nationalised transport service will eventually establish their superiority over the private system and sensitively respond to the comforts of and avoid injury to the travelling public and the pedestrian users of our highways.

D We dismiss the Special Leave Petitions.

N.V.K.

Petitions dismissed.