

RATTAN SINGH *v.* STATE OF PUNJAB (*Krishna Iyer, J.*)

719

(1979) 4 Supreme Court Cases 719

(BEFORE V. R. KRISHNA IYER AND P. N. SHINGHAL, JJ.)

RATTAN SINGH .. Petitioner ;

Versus

STATE OF PUNJAB .. Respondent.

Special Leave Petition (Cri.) No. 953 of 1979†, decided on October 3, 1979

Penal Code, 1860 — Section 304-A — Rash and negligent driving causing death — 2 years' RI awarded by courts below — Although the accused driver supporting large family and the proprietor of vehicle failing to compensate the family, no compassion can be shown and no interference with the sentence called for — Conventional defences, except under compelling evidence, must be given short shrift — Criminal Trial — Sentence
(Paras 3 and 4)

Torts — Negligence — Rash and negligent driving causing death — Rule of res ipsa loquitur to be applied with care, keeping in view the increasing rate of such casualties
(Paras 3 and 4)

Penology — Sentencing — Should have a curative approach — State should attach a course for better driving together with a livelier sense of responsibility when the punishment is for driving offences — Occasional parole and reformatory courses may also be considered without rigour of old rules on application in cases of men with poor families
(Para 5)

Special leave petition dismissed R/4560/CR

[Ed.: For application of res ipsa loquitur to criminal cases see *Syad Akbar v. State of Karnataka* later in this volume.]

Advocates who appeared in this case :

A. S. Sohal and R. C. Kohli, Advocates, for the Petitioner.

ORDER

The Order of the Court was delivered by

Krishna Iyer, J.—This petition for special leave under Article 136 is by a truck driver whose lethal hands at the wheel of an heavy automobile has taken the life of a scooterist — a deadly spectacle becoming so common these days in our towns and cities. This is a case which is more a portent than an event and is symbolic of the callous yet tragic traffic chaos and treacherous unsafety of public transportation — the besetting sin of our highways which are more like fatal facilities than means of mobility. More people die of road accidents than by most diseases, so much so the Indian highways are among the top killers of the country. What with frequent complaints of the State's misfeasance in the maintenance of roads in good trim, the absence of public interest litigation to call State transport to order, and the lack of citizens' tort consciousness, and what with the neglect in legislating into law no-fault liability and the induction on the roads of heavy duty vehicles beyond the capabilities of the highways system, Indian Transport is acquiring a meaning reputation which makes travel a tryst with Death. It looks as if traffic regulations are virtually dead and police checking mostly absent. By these processes

†From the Judgment and Order dated October 15, 1978 of the Punjab and Haryana High Court in Criminal Revision No. 1021 of 1978

of lawlessness, public roads are now lurking death traps. The State must rise to the gravity of the situation and provide road safety measures through active police presence beyond frozen indifference, through mobilisation of popular organisation in the field of road safety, frightening publicity for gruesome accidents, and promotion of strict driving licensing and rigorous vehicle invigilation, lest human life should hardly have a chance for highway use.

2. These strong observations have become imperative because of the escalating statistics of road casualties. Many dangerous drivers plead in Court, with success, that someone else is at fault. In the present case, such a plea was put forward with a realistic touch but rightly rejected by the courts below. Parking of heavy vehicles on the wrong side, hurrying past traffic signals on the sly, neglecting to keep to the left of the road, driving vehicles criss-cross often in a spirituous state, riding scooters without helmets and with whole families on pillions, thoughtless cycling and pedestrian jay walking with lawless ease, suffocating jam-packing of stage carriages and hell-driving of minibuses, overloading of trucks with perilous projections and, above all, policemen, if any, proving by helpless presence that law is dead in this milieu charged with melee — such is the daily, hourly scene of summons by Death to innocent persons who take to the roads, believing in the bona fides of the traffic laws. We hope that every State in India will take note of the human price of highway neglect, of State transport violations and the like, with a sombre sensitivity and reverence for life.

3. This, however, does not excuse the accused from his rash driving of a 'blind Leviathan in berserk locomotion'. If we may adapt the words of Lord Greene, M.R.: 'It scarcely lies in the mouth of the truck driver who plays with fire to complain of burnt fingers'. Rashness and negligence are relative concepts, not absolute abstractions. In our current conditions, the law under Section 304-A IPC and under the rubric of Negligence, must have due regard to the fatal frequency of rash driving of heavy duty vehicles and of speeding menaces. Thus viewed, it is fair to apply the rule of *res ipsa loquitur*, of course, with care. Conventional defences, except under compelling evidence, must break down before the pragmatic Court and must be given short shrift. Looked at from this angle, we are convinced that the present case deserves no consideration on the question of conviction.

4. Counsel for petitioner has contended that a sentence of 2 years' RI is excessive, especially having regard to the fact that the petitioner has a large family to maintain and the proprietor of the truck has left his family in the cold. When a life has been lost and the circumstances of driving are harsh, no compassion can be shown. We do not interfere with the sentence, although the owner is often not morally innocent.

5. Nevertheless, sentencing must have a policy of correction. This driver, if he has to become a good driver, must have a better training in traffic laws and moral responsibility, with special reference to the potential injury to human life and limb. Punishment in this area must, therefore, be accompanied by these components. The State, we hope, will attach a course for better driving together with a livelier sense of responsibility, when the punishment is for driving offences. Maybe, the State may consider, in cases of men with

poor families, occasional parole and reformatory courses on appropriate application, without the rigour of the old rules which are subject to Government discretion.

6. The victimisation of the family of the convict may well be a reality and is regrettable. It is a weakness of our jurisprudence that the victims of the crime, and the distress of the dependants of the prisoner, do not attract the attention of the law. Indeed, victim reparation is still the vanishing point of our criminal law! This is a deficiency in the system which must be rectified by the legislature. We can only draw attention to this matter. Hopefully, the Welfare State will bestow better thought and action to traffic justice in the light of the observations we have made. We dismiss the special leave petition.

(1979) 4 Supreme Court Cases 721

(BEFORE V. R. KRISHNA IYER AND D. A. DESAI, JJ.)

COMMISSIONER OF INCOME TAX,
ANDHRA PRADESH

.. Petitioner ;

Versus

T. N. ARAVINDA REDDY

.. Respondent.

Special Leave Petition (Civil) No. 1557 of 1979†, decided on October 5, 1979

Income Tax — Capital gains — Exemption — Profit on sale of property used for residence — Expression ‘purchased . . . a house property’ in Section 54 of Income Tax Act, 1961 — ‘Purchase’ — Meaning of — Partition of a Hindu coparcenary except a common house — Eldest brother selling his partitioned house but acquiring the common house by obtaining in his favour deeds of release of shares from other brothers for consideration adjustable towards the extra share (Jeshtabhaga) agreed to be given to the eldest — Held, the release deeds amounted to purchase of the house by the eldest and hence exemption under Section 54 clause (i) would be applicable to the profits earned by him on the sale of his house — Income Tax Act, 1961, Section 54, clause (i)

Interpretation of Statutes — Plain meaning — Where a word is incapable of giving rise to more than one meaning and is clear, its plain and not contextual meaning should be given effect to — Taxing statutes

Words and Phrases — Purchase — Meaning of

Held :

The legal meaning of the word ‘purchase’ in Section 54, clause (i) is not different from its plain meaning which connotes buying for a price or equivalent of price by payment in kind or adjustment towards an old debt or for other monetary consideration.

Each release in the circumstances of the present case is a transfer of the releaser’s share for consideration to the release. In plain English, the transferee

†From the Judgment and Order dated February 1, 1978 of the Andhra Pradesh High Court in Case Referred No. 114 of 1976