

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.NO.1795 OF 2005

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JUDGMENT:

This appeal is preferred by the appellant-APSRTC against the order, dated 14-06-2004 in O.P.No.216 of 2000 on the file of the I Additional Motor Accident Claims Tribunal, Nellore (for short 'the Tribunal) seeking enhancement of compensation.

2. The appellant herein filed the above O.P. claiming compensation of Rs.67,159/- for the damages caused to RTC bus bearing No.AP-9Z-4862 stating that on 12-03-1998 at 6.30 A.M., when the bus reached near Chaganam Bhavi, one tractor and trailer came from the reverse side of the bus in a rash and negligent manner without giving any signal and dashed the bus on its left side corner, as a result of which, the corporation incurred damages. Hence the claim petition.

3. 1st respondent herein remained ex-parte and the 2nd respondent herein filed counter denying the averments of the petition and stated that as per the terms and conditions of the insurance policy, the liability of this respondent is restricted to Rs.6000/- only. FIR in Cr.No.17 of 198 was registered for the offence punishable under Section 337 IPC and not for the offence punishable under Section 279 IPC, which clearly reveals that no damage was caused to the bus. The amount of compensation claimed by the corporation is highly excessive and hence, it prays the Court to dismiss the claim petition.

4. Basing on the above pleadings, the trial Court framed the following

issues for trial:

1. Whether the accident in question occurred, if so, was it due to the negligence of the driver of tractor AP 26 U 104?
2. whether the aforementioned vehicle belongs to R1 and stood insured with R2 on the date of accident, if so does its policy cover the risk of the claimant corporation?
3. Whether the claimant corporation is entitled to the compensation, if so, to what amount and from which of the respondents?
4. To what relief?

5. On behalf of the claimant, P.Ws. 1 to 3 were examined and Exs.A1 to A10 were got marked. On behalf of the 2nd respondent, R.W.1 was examined and Ex.B1 was got marked.

6. The Tribunal after considering both oral and documentary evidence available on record, with regard to issue No.1, held that the accident was occurred due to rash and negligent driving of the tractor and trailer by its driver. With regard to issue No.2, the Tribunal held that the liability of the Insurance Company is Rs.6000/- only. With regard to issue No.3, the Tribunal disbelieved the evidence of P.W.3 and the amount of Rs.54,659/- incurred towards repair charges of the bus under Ex.A9 and partly allowed the claim petition directing respondents 1 and 2 to pay amount of Rs.12,500/- and Rs.6,000/- respectively with interest at 9 % p.a., from the date of petition till the date of realization vide impugned award. Challenging the said award, the present appeal is preferred by the corporation.

7. In my view, when the Tribunal came to the conclusion that the limit mentioned in Ex.B1-insurance policy is only Rs.6000/-, the Tribunal ought not to have awarded any loss of earnings by the bus, which sustained damage in the accident. However, since the appeal is preferred by the corporation seeking enhancement of compensation, this Court is not inclined to go into the aspect of awarding amount of Rs.12,500/- towards loss of earnings and Rs.6,000/- towards damages by the Tribunal.

8. Accordingly, the appeal is dismissed confirming the award, dated 14-06-2004 in O.P.No.216 of 2000 passed by the Tribunal. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 25-11-2015

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