

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.2394 of 2005

JUDGMENT:

This appeal is preferred by the APSRTC which is the second respondent in M.O.P.No.408 of 1998 on the file of the Court of the District Judge-cum-Motor Accidents Claims Tribunal at Visakhapatnam (for short, Tribunal).

2. The said OP was filed by the first respondent herein claiming an amount of Rs.99,220/- towards damages caused to his car bearing No.MP23B 5725 in a motor accident that occurred on 22.08.1997 due to the involvement of bus bearing No.AP9Z 4909.

3. The Tribunal, on the basis of the oral and documentary evidence, held that the driver of the car as well as the driver of the bus are responsible for the accident and it apportioned the percentage of fault at 30:70 to the driver of the car and driver of the RTC bus respectively. On the basis of assessment of P.W.2, the Tribunal accepted the damages to the car at Rs.60,000/-. Besides the said amount, in view of the holding of the car in garage for a period of two months, an amount of Rs.5,000/- was also assessed towards transportation charges. The said amount of compensation of Rs.65,000/- was apportioned in 30:70 ratio and an amount of Rs.45,000/- was awarded to the first respondent, by award dated 09.07.2003. The said amount is challenged by the APSRTC in this appeal on the ground that the apportionment of fault was not proper and the first respondent should not have been given any amount towards transportation charges.

4. This Court carefully perused the record and it is of the opinion that the apportionment of fault fixed by the Tribunal cannot be reassessed by this Court sitting in an appeal. In the circumstances, this Court cannot hold that the apportionment of liability as 30:70 is not proper, though there is a point in the appellant's argument that an amount of Rs.5,000/-

should not have been included in the total damages calculated. In view of the apportionment of the liability, the consequential amount that can be awarded in the award and also taking into consideration the passage of time, this Court is not inclined to interfere with the award as the assessment of total damages by P.W.2 cannot be found fault.

5. Hence, the appeal fails and is accordingly dismissed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 01.02.2016
TJMR