

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

MACMA.No.1244 of 2009

JUDGMENT:

The Depot Manager and the Managing Director of the erstwhile Andhra Pradesh State Road Transport Corporation preferred the present appeal aggrieved by the award and decree, dated 12.09.2008, in M.V.O.P.No.517 of 2007 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Ongole, whereby and whereunder a compensation of Rs.1,57,500/- was awarded as against the claim of Rs.2,00,000/- for the injuries sustained by the respondent – petitioner, mainly on the ground that, though, there was direct collision between the bus and the motor cycle driven by the claimant, the Tribunal, some how, cast 80% liability on them, taking the contributory negligence to the extent of 80% of the driver of the bus and the remaining 20% attributed to the claimant himself.

2. Heard Sri P.Durga Prasad, learned counsel for the appellants, and Sri S.Venkateswarlu, learned counsel for respondent No.1-claimant. So far as respondent No.2, being the driver of the bus at the relevant time, is concerned, having shown him as a party in the appeal, it is endorsed that he is not a necessary party.

3. The Tribunal, while assessing the contributory negligence of both, the driver of the bus and the claimant, in

paragraph 4 of the order elaborately discussed the manner in which the accident had taken place and, by assigning cogent reasons and having examined the evidence of R.W.1, who is no other than the bus driver arrayed as Respondent No.3 in the O.P, fixed the negligence on the part of the driver of the bus at 80%, holding that the claimant, who is injured, contributed negligence to the extent of 20%.

4. Perused the order and the rough sketch of scene of occurrence.

5. Nothing more is required to probe further, when the rough sketch itself clearly shows that there is negligence on the part of the driver of the bus to the extent of 80%. The Tribunal has apportioned the liability of the petitioner to the extent of 20%. No further discussion is required except to hold that the order passed by the Tribunal is based on appreciation of evidence and no legal infirmity is to be found warranting interference. Therefore, so far as the apportionment of liability based on the negligence of both, the driver of the bus and the injured, is concerned, the order under challenge is confirmed.

6. So far as the rate of interest is concerned, the Tribunal has granted the same at 9% per annum. However, it requires to be reduced, in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir**

Singh and others^[1] and is, accordingly, reduced to 7.5% per annum from the date of petition till realisation.

7. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal only in respect of the rate of interest, as indicated above. There shall be no order as to costs.

8. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

**JUSTICE A.SHANKAR
NARAYANA**

08.08.2016
v v

^[1] 2013 ACJ 1403