

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.92 OF 2010
AND
CROSS OBJECTIONS (SR) No.32271 OF 2011

COMMON JUDGMENT:

The APSRTC—respondents, maintained the appeal against the award passed on 12.11.2009, in O.P. No.883 of 2007 on the file of Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad (for short 'the Tribunal') which was maintained by the injured claimant, for a compensation of Rs.10,50,000/- for the injuries sustained in the motor accident occurred on 06.04.2006 under Section 166 of Motor Vehicles Act, 1988 (for short 'the Act') and from contest, the Tribunal awarded of a sum of Rs.3,43,250/- with interest at 7.5% per annum by fixing 50% liability each and in directing the respondents to pay.

2) Learned standing counsel for APSRTC contends that the Tribunal gravely erred in granting said compensation and arriving at the amount exorbitantly and also in fixing 50% liability on the driver of the bus of the appellants instead of exonerating the RTC by fixing liability on the injured claimant, who is solely responsible for the accident out of his sheer negligence, thereby prayed to set aside the award of the Tribunal by holding that it is sole contribution of the injured claimant resulting in the accident and prayed to allow the appeal.

3) Heard learned standing counsel for RTC and learned counsel for respondent/ claimant. Perused the material on record.

4) The claimant having put forth his appearance after service of summons by filing vakalath on 08.04.2010 and vacate stay petition in

M.A.C.M.A. No.1424 of 2010 against the stay granted in M.A.C.M.A. M.P. No.350 of 2010 on 08.02.2010, did not file the cross objections within one month as required by Order XLI Rule 22 C.P.C much less with any condone delay application to receive the cross objections and baldly filed the cross objections on 25.08.2011 which is more than 16 months after service of summons and after filing of vakalat and vacate stay petition supra, therefore the cross objections are no way sustainable as having not been filed within the statutory period much less with any condone delay application.

5) A perusal of the docket no where shows any condone delay application filed but only Cross Objections SR No.32271 of 2011 admitted on 27.09.2011. In view of the above, cross objections cannot be admitted much less to consider.

6) Now, coming to the appeal, from the finding of the Tribunal having scanned the evidence in fixing equally liability of the two vehicles i.e., of the injured and the RTC bus, practically there is nothing to interfere.

7) Even coming to the quantum impugned by the RTC in the appeal, for this Court while sitting in appeal there is nothing to interfere, as cross objections are unsustainable otherwise it can be something more.

8) Having regard to the above, there are no merits in the appeal and the cross objections cannot be considered for no delay condonation application, thereby both the appeal and cross objections are dismissed. No order as to costs.

Consequently, Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.18.10.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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AND
CROSS OBJECTIONS (SB) No.32271 OF 2011



Date:18.10.2016

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