

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.1727 OF 2006

JUDGMENT:

Aggrieved by the award of the tribunal dated 05.06.2006, this appeal is preferred by the 2nd respondent-APSRTC among two respondents including Driver of the Bus bearing No.AP10Z 2281 in O.P.No.643 of 2004 filed under Section 166 of the Motor Vehicles Act (for short, 'the M.V.Act), for the claim of Rs.12,00,000/-(Rupees twelve lakhs only), on the file of the learned Chairman, Motor Accidents Claims Tribunal–cum-III Additional District Judge, Kakinada (*for short, 'Tribunal'*) maintained by the 4 claimants no other than wife, two minor children and mother of the deceased by name Y.C.Mahalakshmaiah, Government Elementary School Head Master of East Godavari District, for the tribunal granted of Rs.6,00,000/- with interest at 7.5%p.a. with joint liability.

2. The contentions in the grounds of appeal vis-a-vis, oral submissions are that the tribunal erred in relying upon Exs.A.1, A.2 and A.4 (FIR, altered FIR, Postmortem report and chargesheet) to establish the accident was outcome of rash and negligent driving of the bus driver R.1-R.W.1 though he was acquitted by judgment dated 30.07.2005 in C.C.No.260 of 2004 by the learned IV Additional Junior Civil Judge, Kakinada on merits and there is nothing to say that the accident was the result of negligence of the bus driver from the evidence of P.W.1 and the alleged eye witness P.W.2 cannot be given credence.

3. Heard and perused the material on record.

4. The factual matrix clearly shows that while the deceased was proceeding on bicycle, it was due to the rash and negligent driving of the bus driver, the bus dashed the bicycle as a result he sustained injuries and succumbed while undergoing treatment within ten days after the accident and it establishes the death is due to the injuries and it is hardly believable even the case ended in acquittal with trial, the FIR, Chargesheet and evidence of P.W.2 eye witness in categorical terms speak of the bus dashed the cyclist and even from the evidence of the bus driver-R.W.1 for the question of cyclist even dashed the bus

even though not moving, he can survive from some injuries and not the serious injuries but the accident took place from the negligent driving of the bus driver only which was supported by reasons, thus, the conclusion arrived by the tribunal needs no interference.

4. Accordingly and in the result, the appeal is dismissed. There is no order as to costs in the appeal. Consequently, pending miscellaneous petitions, if any, in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:02.08.2016

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