

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2464 OF 2009

JUDGMENT:

The present appeal is preferred by the erstwhile Andhra Pradesh State Road Transport Corporation (APSRTC), represented by its Regional Manager, Mahabubnagar, presently in the State of Telangana, under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') aggrieved over the award of compensation of Rs.18,000/- as against the claim of Rs.1,00,000/- laid by the petitioner under Section 166 of the Act for the injuries he sustained in a road accident that took place on 28-07-2004 at about 4.20 p.m. at Sankalmaddi on National Highway No.7, when a bus bearing registration No.AP 11Z 29 hit the lorry bearing registration No.AP 11T 3772, due to which, driver of the said lorry and a passenger died instantly and lower incised teeth of the petitioner was broken.

2. The claim was opposed by the Corporation, which is sole respondent in the aforesaid OP, raising various pleas including non-joinder of the owner and insurer of the lorry and also the plea of contributory negligence.

3. The Tribunal having framed three issues, examined PWs.1 and 2 and marked Exs.A-1 to A-3.

4. The Tribunal, on issue Nos.1 and 2, while holding them in favour of the petitioner, granted Rs.18,000/- discarding the stand of the petitioner that he spent Rs.30,000/- towards medical expenses for loss of lower incised teeth as evidenced by contents of Ex.A-2, wound certificate, issued by Civil Assistant Surgeon, Government Hospital, Mahabubnagar, and X-ray film, with interest at 7.5% per annum.

5. The aforesaid order and decree are under challenge in the instant appeal by the Corporation mainly contending in the grounds that the Tribunal failed to examine the contributory negligence and ought to have fixed liability at 50% on each of the drivers, as it was a direct collision, and the claim petition was bad for non-joinder of Insurance Company of the lorry and even the amount of Rs.18,000/- granted by the Tribunal was on higher side, as no grievous injury was sustained by the petitioner and, therefore, sought to set aside the award and decree.

6. Heard Sri B. Mayur Reddy, learned counsel for the appellant - respondent. No representation for the respondent - petitioner.

7. Perused the order and the evidence on record, both, oral and documentary.

8. The stand taken by the appellant - Corporation that in view of the direct collision, the liability ought to have fixed at 50% on each

of the drivers, would not sustain in view of the fact that in Exs.A-1 and A-3, which are certified copies of first information report and charge sheet, the driver of the RTC bus alone was made as an accused, and of course, the driver of the lorry died instantly. Even otherwise, no material is placed by the Corporation by examining the driver of the RTC bus at least, besides omitting to file scene of occurrence panchanama and a rough sketch of scene of occurrence, so as to at least aid the Tribunal in arriving at a just conclusion.

9. The further submission that the petitioner did not sustain any grievous injury is not correct for the reason that the petitioner lost lower incised teeth, which can never be construed as a simple injury. The amount of Rs.18,000/- granted by the Tribunal is based on appreciation of evidence and, therefore, does not warrant interference. There is no merit in the appeal and, accordingly, the same is dismissed. No order as to costs.

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

A. SHANKAR NARAYANA, J

November 02, 2016.

Mgr