

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.93 of 2010

JUDGMENT:

The respondents/ Andhra Pradesh State Road Transport Corporation (for short 'APSRTC') of O.P.No.110 of 2008 of the claim petition filed by the parents of the deceased by name, Muppaneni Mukesh, aged about 27 years or so, unmarried, from the alleged accident on 15.05.2007 at about 8.45 a.m. at the outskirts of Chandoor Village, Nizamabad, in a rash and negligent driving of the bus of the respondents dashed the bike of the deceased, for a compensation of Rs.5,10,000/- under Section 166 of the Motor Vehicles Act, since awarded Rs.3,04,000/- with interest at 7.5% p.a., by impugning the same maintained the appeal by raising several contentions including from involvement of the bus and by saying accident was the result of sheer negligence of the deceased if any and the compensation awarded is also otherwise excessive and exorbitant.

2. Learned counsel for the appellants/ APSRTC reiterated the contentions in the grounds of appeal vis-à-vis oral submissions.

3. Whereas, it is the submission of the learned counsel for the claimants/ respondents that the award of the tribunal holds good and for this Court while sitting in appeal there is nothing to interfere but for no cross objections the compensation awarded is utterly low, hence to dismiss the appeal.

4. Heard and perused the material on record.

5. Now, coming to the manner of accident and correctness of the finding of the tribunal the bus alone at fault and any composite negligence or contribution of the deceased bike rider concerned, Ex.A1-F.I.R. is, at about 10 a.m. or so from the police station within 10 K.M. within no lapse of time of the accident, showing it is due to the rash and negligent driving of the driver of the bus, with bus number clearly given with the place of accident. The M.V.I.Report, no doubt shows no even any scratch to the bus from perusal of Ex.A4-M.V.I.Report. RW1-driver of the bus deposed that the bus is not at all involved. In fact, it is hardly believable of bus not at all involved in the accident from the facts showing involvement of the bus with bus number hardly with no time of accident in registering F.I.R. but for to say any composite negligence of the deceased bike rider also. The very F.I.R. shows while the bus was coming in opposite direction to the rider of the bike/ the deceased, on the road at the outskirts of Chandoor village on Varni Police station and the bus no way sustains even any scratches at the front. It clearly shows there is contribution from the opposite negligence of the deceased also. The Post Mortem Report-Ex.A3 shows death was due to crush injuries, fracture and rupture of whole brain matter including base crushed. It clearly shows there is involvement of the bus and contribution to the accident. Even taken the bus is not damaged, once the death is from the crush injuries, it is definitely by involvement of the bus for not a case of any other vehicle involved by stray suggestion of the respondents/ appellants and thereby the tribunal rightly not

believed the evidence of RW.1 of bus not at all involved that too when police after investigation filed Ex.A2-charge sheet showing involvement of the bus. From this even taken any 10% of the contribution of the deceased as main cause of death is from the crush injury falling under the bike wheels for 90% liability on the APSRTC, what the compensation awarded by the tribunal no way requires interference but for no cross objections to enhance.

6. Accordingly and in the result, the appeal is dismissed. There is no order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Date: 21.10.2016
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Dr. B. SIVA SANKARA RAO, J

