

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.2321 OF 2005

JUDGMENT:

1. This Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), is filed by the appellant-1st respondent (A.P.S.R.T.C.), aggrieved by the award dated 24.03.2004, passed in M.V.O.P. No.35 of 2000 by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge at Chittoor (for short, 'the Tribunal').

2. Heard the learned standing counsel for the appellant-A.P.S.R.T.C., learned counsel for the 1st respondent-petitioner, learned standing counsel for the 3rd respondent-insurer and perused the record.

3. Learned standing counsel for the appellant-A.P.S.R.T.C would submit that the accident occurred due to the rash and negligent driving of the driver of Jeep bearing No.AP-03A-8389 (for short, 'the jeep') due to its overcrowded capacity at the time of accident, but the Tribunal wrongly held that the accident occurred due to rash and negligent driving of the driver of bus bearing No.AP-10Z-6185 (for short, 'the crime vehicle'). Learned counsel further submits that the compensation awarded by the Tribunal is highly excessive and exorbitant. There is ample evidence to believe that the accident occurred due to the negligence of the driver of the Jeep. The Tribunal could have apportioned the liability to both the vehicles in the ratio of 50%:50%, as there was head on collision between the vehicles and ultimately prayed to allow the Appeal setting-aside the impugned award.

4. On the other hand, learned counsel for the 1st respondent-petitioner and learned standing counsel for the 3rd respondent-insurer would contend that the Tribunal having analyzed the entire evidence on record rightly

awarded the compensation and tagged the liability against the appellant - A.P.S.R.T.C. as there is ample evidence to believe that the accident occurred due to the rash and negligent driving of the driver of crime vehicle. There is no evidence to substantiate the submissions made on behalf of the appellant-A.P.S.R.T.C and as such there are no justifiable circumstances to vary the award under Appeal and ultimately prayed to dismiss the Appeal.

5. In view of the rival contentions put forth by both parties, the sole point for determination is:

Whether the impugned award passed by the Tribunal in granting compensation of Rs.1,00,000/-, in favour of the petitioner and against appellant/A.P.S.R.T.C., with interest at the rate of 9% p.a. is sustainable?

6. **POINT:** As per the evidence of P.W.1 and the documents marked *i.e.*, Ex.A-1 certified copy of F.I.R. in Crime No.280 of 1998 of Palamaner police station, Ex.A-2 certified copy of charge sheet in C.C. No.63 of 1999 on the file of J.F.C.M. Palamner, Ex.A-3 certified copy of accident information report of police, Ex.A-4 certified copy of Motor Vehicle Inspector's report, Ex.A-5 work experience certificate issued by Vivekananda E.M. School, Yadamari, Ex.A-6 bunch of medical bills and Ex.A-7 certified copy of wound certificate of the petitioner, proves that the accident occurred due to the rash and negligent driving of the driver of crime vehicle and the petitioner suffered injuries in that accident. R.W.1, Administrative Officer of 3rd respondent-insurer of Jeep, deposed that there was rashness and negligence on the part of driver of crime vehicle and there was no negligence on the part of driver of Jeep. R.W.2, conductor of R.T.C. bus, deposed that there was rashness and negligence

on the part of driver of Jeep. As per the evidence of P.W.2 P.Vasu Gowdu, who traveled by the Jeep on the date of accident *i.e.*, on 09.12.1998, deposed that the R.T.C. bus came and hit the jeep, there was negligence on the part of driver of crime vehicle, inmates of the jeep suffered injuries including the petitioner. He further deposed in the accident 3 persons died. Simple suggestions were put to P.W.2 that he was deposing false and there was no rashness and negligence on the part of driver of crime vehicle. Nothing was substantiated in the cross-examination of P.W.2 to discard his testimony. P.W.2 is the injured person; there is no reason to disbelieve him; moreover, there are three causalities in the accident. Therefore, the evidence on record clearly establishes the negligence on the part of driver of crime vehicle. The Tribunal gave a specific finding to this effect, basing on the evidence on record. There is nothing to take a different view. The finding of the Tribunal in this regard is confirmed.

7. The Tribunal has analyzed the entire medical and oral evidence in assessing the compensation payable to the petitioner and granted Rs.1,00,000/-, which is also based on record.

8. The submission of learned standing counsel for the appellant/A.P.S.R.T.C. is that the Tribunal awarded higher interest at the rate of 9% p.a. There are instances where the Apex Court and this Court awarded interest at the rate of 9% p.a. in some cases. Therefore, no infirmity can be found in the award of interest. The Appeal is devoid of merits and is liable to be dismissed.

9. In the result, the Appeal is dismissed confirming the award dated 24.03.2004, passed in M.V.O.P. No.35 of 2000 by the Tribunal.

10. As a sequel, pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 27.10.2017.
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