

SMT JUSTICE T. RAJANI

MACMA.No.925 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the III Additional District Judge, Anantapur in OP.No.96 of 2000 dated 25.01.2006.

2. The grounds on which this appeal is preferred are that the Court below erred in concluding that there was no rash and negligent driving on the part of the driver of the APSRTC bus, simply based on the evidence of R.W.2, which is self-serving; the Court below failed to appreciate that the proceedings of the criminal Court are independent and it failed to appreciate the manner of the accident and it erred in not holding that the accident occurred due to the negligence on the driver of the bus. The Court below ought not to have dismissed the claim against the first respondent and ought to have awarded the entire claim against the first respondent only.

3. Heard both the counsel.

4. A perusal of the judgment of the Court below would show that it did not base its finding under issue No.1 on the reasoning given by it under the said issue. It observed that it was the case of the claimant that he is a hamali and on 14.02.1999, he was travelling along with other hamalies on the tractor belonging to the second respondent and the tractor was proceeding from Kadiri to Pulivendula and when it reached near Siddaguripalli, an APSRTC bus bearing No.AP 10 Z 1020 came in a rash and negligent manner from behind and dashed against

the tractor. It also observed that the claimant, in his evidence, as P.W.1 deposed that the accident took place only account of the rash and negligent driving of the driver of the bus and it further observed that the documents also go to show that the accident took place on account of the rash and negligent driving of the driver of the bus. It considered the evidence of R.W.2, who deposed that the accident took place on account of the rash and negligent driving of the driver of the tractor but not the driver of the bus and that the criminal case filed against the driver of the bus ended in acquittal and came to a sudden and quick conclusion that the cumulative effect of all the above aspects is that the accident took place only on account of the rash and negligent driving of the driver of the tractor.

5. There is absolutely no rationale for the approach adopted by the Court below. While it relies on the averments of the claim petition and the evidence of P.W.2 and the contents of the FIR and the charge sheet, which is filed after investigation, simply based on the evidence of R.W.2, it concludes negligence on the part of the driver of the tractor. The said finding is unsustainable, as being unreasonable. When it is nobody's case that the accident occurred due to the negligence of the driver of the tractor, the Court below is not justified in fixing the liability on the owner of the tractor. The law is too well settled that the result of a criminal case does not have any bearing on the civil case. The standard of proof of a fact in a criminal case and a civil case is totally different. A fact in a criminal case has to be proved beyond all reasonable doubt, while it would suffice for a fact to be proved in a civil case by preponderance of probabilities.

Hence, acquittal of the driver of the bus, in the criminal case, ought not to have driven the Court to the conclusion that there was no negligence on his part.

6. Hence, the judgment of the Court below stands modified to the extent of fixing the liability on respondent No.1 alone and exonerating respondent No.2. Respondent No.2 is liable for the compensation and the award shall be satisfied by respondent No.2. Respondent No.1 stands exonerated from liability. The rest of the award is left uninterfered with.

The appeal, to the extent indicated above, is allowed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

July 14, 2017
DSK



T. RAJANI, J