

HON'BLE SRI JUSTICE M.S.K.JAI SWAL

M.A.C.M.A.No.1282/ 2010 & X-Objections (SR)
No.51566/ 2011

COMMON JUDGMENT:

The respondent/Insurance company filed MACMA No.1282/2010 questioning the award dated 05.01.2009, passed in M.V.O.P.No.449 of 2008 by the learned Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Guntur (for short "the Tribunal"), by and under which, the Tribunal awarded a sum of Rs.9,95,000/- as against the claim of Rs.10,00,000/- to the respondents/claimants for the death of the deceased Vangeti Naga Samba Murthy in an accident occurred on 26.02.2008 at about 9.50 p.m near Bharath Petroleum Bunk, Grand Trunk Road, Guntur, involving the RTC Bus bearing registration No.AP7W-6129.

The facts in brief are that on 26.02.2008 at about 9.50 p.m when the deceased was proceeding on his TVS 50 XL Moped bearing registration No.AP7D-8186 from his Dhall Mill and when reached near Bharath Petroleum Bunk, Guntur, the offending RTC bus came in opposite direction in a rash and negligent manner at high speed and hit his TVS moped, due to which, the deceased fell down and left front wheel of the offending bus ran over his head, causing his instantaneous death. The deceased was aged about 44 years, he was hale and healthy by the time of accident, and he was earning Rs.30,000/- per month by running two Dhall Mills.

The appellant/Insurance Company filed counter denying its liability stating that since the bus was under hire to the RTC, the owner of the bus and RTC are liable to pay compensation.

On behalf of the claimants, P.Ws.1 and 2 were examined and got marked Exs.A.1 to A.11. On behalf of the respondents, no oral or documentary evidence was adduced.

The claimants filed claim petition claiming compensation of Rs.10,00,000/- for the death of the deceased, against which, the Tribunal awarded a sum of Rs.9,95,000/- Being dissatisfied with the quantum of compensation, the claimants filed Cross-Objections seeking enhancement of compensation.

Having heard the learned counsel for the claimants and perused the record, on merits there is no substance in the claim of the claimants to enhance the compensation. Determination of the compensation is based on the document i.e. Ex.A9, which was produced by the claimants. However, as per proviso to Section 173(2) of the Motor Vehicles Act, 1988, the Cross-objections are not maintainable for the reason that the difference of compensation that is sought to be claimed by the claimants is Rs.5,000/- In view of the proviso to Section 173(2) of the Act, no appeal shall lie against any award of a Claims Tribunal if the amount in dispute in the appeal is less than ten thousand rupees. Hence, the Cross-objections are liable to be dismissed and are accordingly dismissed.

The Insurance Company filed the appeal contending that the accident took place involving the bus which was hired by the State Road Transport Corporation and owned by the 7th respondent and insured by the appellant. Even though there was conflict of decisions on the aspect as to whether in the case of a bus hired by RTC, as to who is liable to pay the compensation, that controversy is set at rest by a recent judgment of the Supreme Court in

*Managing Director, KSRTC v. New India Assurance Co.Ltd.*¹ wherein the Supreme Court at para-34, laid down as under:

“34. In view of the aforesaid discussion, we hold that registered owner, insurer as well as KSRTC would be liable to make the payment of compensation jointly and severally to the claimants and the KSRTC in terms of the lease agreement entered into with the registered owner would be entitled to recover the amount paid to the claimants from the owner as stipulated in the agreement or from the insurer.”

In view of the above decision of the Supreme Court, the contention of the appellant-insurance company that since the offending vehicle was hired by RTC, the insurance company is not liable to pay compensation cannot be sustained. In an accident involving a bus hired by RTC, the State Road Transport Corporation, the owner of the vehicle and the insurance company are jointly and severally liable to pay the compensation, as has been held by the Supreme Court in the decision referred to supra, and the Tribunal has adopted the exact procedure in determining the liability in the present case.

In view of the above, the appeal is liable to be dismissed. Accordingly MACMA as well as Cross-objections are dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

M.S.K.JAI SWAL,J

Date: 27.06.2017
Dsr

¹ 2015 (6) ALD 166 (SC)