

THE HON' BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.1076 OF 2007

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-petitioner in M.V.O.P. No.378 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum- Principal District Judge, Kurnool (for short, 'the Tribunal'), having got dissatisfied with the award of compensation of Rs.25,000/- with interest at 7.5% per annum from the date of petition till date of payment with proportionate costs, vide order, dated 15.02.2007, as against the claim of Rs.66,000/-, towards damages of the Jeep in a road accident occurred on 19.09.2004.

2. The case of the appellant is that on 19.09.2004 at about 9-30 pm., while the appellant, who is the owner cum driver of the Jeep bearing registration No.AP 21 V 4689, and one Venu Gopal were in the said jeep from Peapully to Dhone on extreme left side of the road, slowly with due care and caution, following traffic rules and at about 10-00 pm., when they reached near Obulapuram Mitta, one RTC bus bearing registration No.AP 10 Z 9557 being driven by its driver came from Kurnool side at high speed and on the wrong side of the road and dashed against the jeep, causing injuries to the appellant and damages to the jeep and death to the other inmate of the jeep. On a report given by, a case was registered in Crime No.200/ 0004 under Sections 337 and 304-A IPC on the file of Dhone Police Station. The accident occurred due to the rash and negligent driving of the driver of the RTC Bus. Therefore, claiming compensation of Rs.66,000/- towards damages of the Jeep, which was assessed by the qualified Surveyor, the appellant filed claim petition against the respondent - APSRTC.

3. The respondent filed counter before the Tribunal, denying all the material allegations mentioned in the petition and contended that there is no rash and negligent driving of the driver of the RTC bus, and that there was negligence on the part of the driver cum owner of the Jeep i.e. the appellant and that the appellant did not file registration certificate in respect of the jeep in proof of ownership, his driving licence and the bills for a sum of Rs.66,000/- towards repairs of the said Jeep and that the claim of the appellant is excessive and finally, prayed to dismiss the claim petition.

4. The Tribunal, after framing three issues and considering the evidence of P.Ws.1 and 2, and Exs.A.1 to A.5 on behalf of the appellant, awarded compensation of Rs.25,000/- with interest at 7.5%per annum from the date of petition till the date of payment with proportionate costs, in favour of the appellant-petitioner against respondent. Challenging the said award, the appellant-petitioner preferred the present appeal seeking enhancement of compensation.

5. Heard both the learned counsel for the appellant-petitioner and the learned Standing Counsel for respondent, apart from perusing the material available on record.

6. The contention of the learned counsel for the appellant is that the Jeep bearing No.AP 21 V 4689 was completely damaged in the motor accident, which was occurred due to the rash and negligent driving of the RTC Bus bearing No. AP 10 Z 9557; that a criminal case was registered against the driver of the Bus and was charge sheeted; that Ex.A-3 is the Surveyor's report wherein the damage caused to the vehicle is clearly demonstrated, wherein the photos and other documents clearly reveals the damage caused to the Jeep and

that the Tribunal granted Rs.25,000/- towards compensation against the claim of Rs.66,000/-, which is meagre and prayed to enhance the compensation.

7. On the other hand, learned Standing Counsel for the respondent contended that the tribunal has analysed the entire evidence on record and granted just compensation and that there are no circumstances to interfere with the order under appeal.

8. In view of the contentions put forth by both the counsel, the point for determination is whether the appellant is entitled for enhancement of compensation as contended ?

9. PW.1 – Surveyor, General Insurance Company, Kurnool clearly stated that the damage caused to the jeep bearing No. AP 21 V 4689 is Rs.66,000/- and Ex.A-1 and A-2 reveals that the jeep of the appellant was damaged due to the rash and negligent driving of the RTC bus and Ex.A-3 bundle of photos of the damaged jeep and its parts, and it show that the right side and front side of the Jeep and was completely damaged. The damaged parts are also exhibited in the photos. The Surveyor has given a detailed report narrating all the damages, the cost of the material and the repair charges and ultimately the figure arrived at is Rs.66,000/-. No doubt, the damage to the Jeep is caused due to rash and negligent driving of the APSRTC bus. Under Ex.A-5 – RC book of the jeep is marked, as per it the Jeep is 2001 make. The accident occurred on 19.09.2004. The jeep met with the accident within four years of its purchase. The Tribunal did not consider the year of making of the Jeep. It simply granted an amount of Rs.25,000/- with 7.5% interest as compensation. There is nothing to disbelieve the genuineness of the report marked under Ex.A-1 and photos annexed thereto. The details of the damage are mentioned therein. The photos also in detail reveal the damages caused to the different

parts of the Jeep. No depreciation is shown for the damaged parts. Therefore, some amount is liable to be deducted towards depreciations.

10. Having regard to the facts and circumstances of the case, after deducting Rs.16,600/- towards depreciation, an amount of Rs.50,000/- can be awarded in this case towards damages to the Jeep. The other findings recorded by the Tribunal are based on the evidence on record, and therefore, no interference is warranted and as such they are confirmed.

11. Accordingly, this appeal is allowed in part modifying the order dated 05.02.2007 passed by the Tribunal, enhancing the compensation from Rs.25,000/- to Rs.50,000/- with interest at the rate of 7.5% per annum from the date of petition till payment. On deposit the awarded amount, the appellant-petitioner is permitted to withdraw the entire compensation and interest. The other terms of the order under challenge remain unchanged.

12. Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

July 26, 2017
KTL

Dr. SHAMEEM AKTHER, J