

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

M.A.C.M.A. No. 1119 of 2010

JUDGMENT:

This appeal is arising out of the Award and Decree dated 29.03.2010 passed in M.V.O.P.No.217 of 2008 on the file of the Motor Accident Claims Tribunal (Before the V-Additional District Judge), Ongole.

2. Brief facts of the case are that on 13.12.2006, the claimant boarded RTC bus bearing No.AP 9Z 8951 at RTC 'X' roads and when he was trying to get down at Rathifile Bus Stand from front door, the bus driver applied sudden brakes. As a result, the petitioner fell down from the bus and the left side tyres pressed his thigh bone. The petitioner sustained bleeding injuries and he was shifted to Gandhi Hospital, Hyderabad. Alleging that the accident occurred due to rash and negligent driving by the driver of the RTC bus, the claimant filed the claim petition claiming compensation of Rs.1,50,000/- against respondent-APSRTC.

3. The Tribunal awarded compensation of Rs.1,50,000/- against the respondent. Being aggrieved by the same, the respondent-APSRTC filed this appeal.

4. Heard the learned counsel for the appellant. Though notices were served on the respondent-claimant, none appeared on his behalf.

6. Learned counsel for the appellant contended on two aspects. Firstly, there is contributory negligence on the part of the respondent. The respondent got down from the moving bus and while the bus was going to reach the destination point inside the bus stand. There is negligence on the part of the deceased and therefore there is contributory

negligence. But the Tribunal has held that the driver of the bus was alone negligent in driving the bus and therefore the said finding may be set aside.

7. The Tribunal has observed that PW1 is the injured who has deposed to the effect that the accident has occurred due to applying of sudden brakes by RW1.

8. According to the testimony of RW1, the injured lost the grip of the bus while getting down. He fell down and sustained injuries and that there was negligence on the part of the injured.

9. On the complaint lodged by PW1, the police registered a case in FIR No.398 of 20067 of Gopalapuram Police Station. After investigation, they have filed the charge sheet Ex.A3 alleging that the accident occurred due to the rash and negligent driving by RW1, the driver of the RTC bus.

10. The Tribunal, on consideration of the evidence, came to the conclusion that the driver of the bus drove it in a rash and negligent manner and was responsible for the accident.

11. Learned counsel for the appellant submits that the bus was already in the bus stand and was moving to the destination point and there was no negligence on the part of the driver of the bus and it was the injured who tried to get down from the moving bus and fell down and received injuries and therefore there is negligence on the part of the injured.

12. As per the contentions in the petition, the injured was trying to get down from the front side door of the bus and suddenly the bus driver picked up speed and due to that he fell down. There is every possibility

for the driver to see when a passenger is getting down from the front door of the bus. He should have slowed down the bus but the driver did not reduce the speed and, therefore, the plea of contributory negligence cannot be accepted in this case. The evidence shows that the injured was trying to get down at the bus stop and suddenly the bus driver picked up speed. Therefore, there is negligence on the part of the driver of the bus. There is no force in the contention raised by the learned counsel for the appellant.

13. Learned counsel for the appellant further contended that the quantum of compensation awarded by the Tribunal is highly excessive. As far as the medical treatment is concerned, the injured claimed Rs.50,000/- but he produced the medical bills for an amount of Rs.17,000/-. However, the Tribunal, placing reliance on the evidence of PW2 that the injured underwent operation has awarded an amount of Rs.50,000/-.

14. It is appropriate to refer to the evidence of PW2-medical officer. According to PW2, he conducted operation for stricture of Urethra on 04.05.2007 and issued Ex.A6 Bill for Rs.17,000/- and the injured was discharged on 24.05.2007. He also stated that the claimant attended follow-up treatment. Ex.A4 is the X-ray related to the injury caused due to injuries to the pelvic bone and Urethra which shows that he sustained fracture to pelvic bone.

15. On consideration of the evidence of the medical officer and keeping in view the age of the respondent-injured, which is 22 years by the date of accident, and his occupation as Computer Instructor and his income of Rs.7,000/- per month, and also the nature of medical treatment

undergone by him, it is appropriate that the Tribunal has awarded reasonable compensation.

16. In view of the above, I do not see any valid grounds to interfere with the order of the Tribunal, and the appeal is liable to be dismissed.

17. Accordingly, the appeal is dismissed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

02nd March, 2017

KSM

GUDI SEVA SHYAM PRASAD, J



THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD



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