

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

M.A.C.M.A. No. 1062 of 2010

JUDGMENT:

This appeal is arising out of the order dated 02.01.2009 in M.V.O.P. No.20 of 2007 on the file of the Motor Accidents Claims Tribunal-cum-Principal District Judge, Kadapa.

2. Brief facts of the case are that on 25.09.2002, at about 2:10 AM, the deceased-S.Alla Bakash was travelling in the APSRTC bus bearing No.AP-11Z-389 from Hyderabad to Kadapa. The driver of the bus allowed some passengers to board the bus with inflammable substance. When the bus reached near Munagala village on NH-7, near KM Stone 173KM, those passengers who are antisocial elements sprinkled petrol on the passengers and set them ablaze, resulting in the death of several passengers, including the deceased. The dependents of the deceased filed claim petition against the respondent-APSRTC seeking compensation of Rs.10,00,000/-.

3. The Tribunal, on considering the evidence available on record, awarded compensation of Rs.8,10,000/- with proportionate costs and interest at 6% per annum, against the respondent. Aggrieved by the same, the respondent-APSRTC filed this appeal.

4. Heard the learned counsel for the appellant-APSRTC and learned counsel for the respondents-claimants.

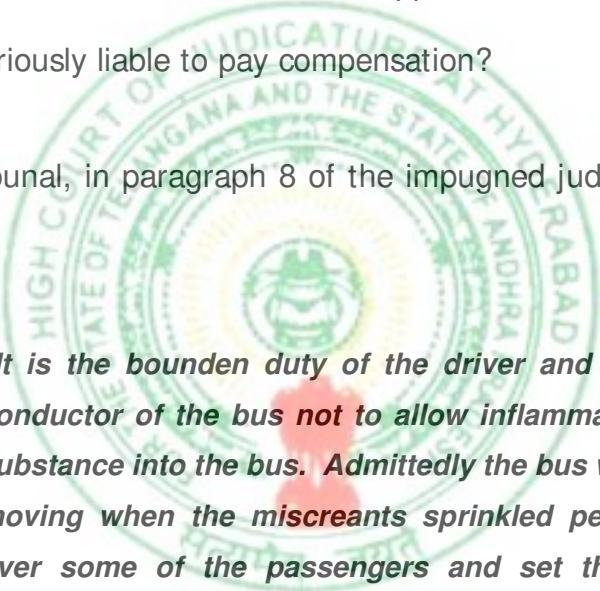
5. Learned counsel for the appellant-APSRTC contended that the driver and conductor of the bus did not know whether the miscreants

entered into the bus with inflammable substances and, therefore, there is no vicarious liability on APSRTC to pay the compensation.

6. Learned counsel for the respondents-claimants countered the arguments of the appellant's counsel and contended that the incident would not have occurred had the driver and conductor checked the miscreants before their entry into the bus and, therefore, the inaction of the driver and conductor led to the ghastly incident and therefore there is vicarious liability on APSRTC to pay compensation.

7. The point for consideration in this appeal is whether the appellant-APSRTC is vicariously liable to pay compensation?

8. The Tribunal, in paragraph 8 of the impugned judgment, observed as under:



"It is the bounden duty of the driver and the conductor of the bus not to allow inflammable substance into the bus. Admittedly the bus was moving when the miscreants sprinkled petrol over some of the passengers and set them ablaze. The miscreants thus admittedly entered the bus with petrol, which is an inflammable substance. Exs.A1 and A2 are the certified copies of FIRs. In Ex.A1, it was stated by the driver of the ill-fated bus that while the bus was in progress, flames emerged from the bus. Indeed after due investigation, police laid charge sheet against four persons. The certified copy of the charge sheet is Ex.A5. While the FIR did not state that the fire was on account of human intervention, charge sheet in Ex.A5 shows that after due investigation, police found that the incident was a case of human intervention and that the four accused were responsible for causing fire in the bus. If the

case of the respondent is that the incident was on account of the ill-maintenance of the bus resulting in the bus catching fire, the respondent is answerable to this claim. Assuming that the incidence was on account of the human intervention, the driver and the conductor of the bus are responsible for their carelessness in allowing passengers to board the bus with inflammable substance. The respondent as the master of the driver and the conductor is then vicariously liable. Thus whether the incident was on account of human intervention or otherwise, the respondent is liable to answer the claim of those who sustained injuries in the incident and the dependents of those who died in the incident. I therefore reject the contention of the learned counsel for the respondent that there was no negligence on the part of the employees of the respondent and that the respondent therefore is not answerable to the claim of the petitioners.”

9. APSRTC is the appellant and the claimants are the respondents. This is a case of burning that place in a running bus. Suddenly flames arose in the bus and the deceased was caught fire and died due to burn injuries. The claimants are the legal representatives of the deceased, made claim against the APSRTC.

10. Firstly it is contended that the incident can't be considered to be a motor vehicle accident. Secondly it is contended that as the incident occurred in the bus due to the flames arose inside the bus and, therefore, there was no negligence on the part of the driver and owner of the bus.

11. The Tribunal has considered the above two contentions raised by the appellant. The Tribunal held that the accident occurred due to the negligence on the part of the driver and conductor of the bus. No doubt,

it is the duty of the driver and conductor to see that no inflammable articles are allowed into the bus. The Tribunal has rightly held that the flames occurred in the bus must be due to the inflammable substances entered into the bus through some miscreants. If the driver and conductor were careful enough to check all the passengers while they enter the bus as to whether they are carrying any inflammable with them, the accident would not have occurred. Therefore, rightly the Tribunal held the driver of the bus liable for the accident, and vicariously held the owner of the bus also liable. Therefore, there is no need to interfere with the findings of the Tribunal this regard.

12. At this juncture, learned counsel for the appellant-APSRTC contended that the quantum of compensation awarded is highly excessive.

13. The Tribunal held that the deceased was a business person basing on the document, Ex.A3. But the Tribunal did not accept the income of the deceased as Rs.10,000/- per month, as no proof with regard to the income of the deceased was produced by the claimants. Therefore, the Tribunal has taken the notional income of the deceased at Rs.5,000/- per month, which is very reasonable, and the same does not require any interference. The Tribunal has rightly deducted 1/3rd from the notional income of the deceased towards his personal expenses, and adopted multiplier '17' and awarded compensation of Rs.6,80,000, towards loss of income and future expectancy of life. Apart from that the Tribunal awarded Rs.5,000/- towards loss of consortium to the 1st petitioner, Rs.15,000/- towards loss of estate, Rs.2,000/- towards funeral expenses, Rs.7,200/- towards transport expenses, Rs.90,800/- towards medical bills

basing on Ex.A9 medical bills, and Rs.10,000/- towards pain and suffering. In all, the Tribunal awarded an amount of Rs.8,10,000/- as compensation on account of the death of the deceased.

14. Therefore, I do not see any valid reason to interfere with the order passed by the Tribunal, and the appeal is liable to be dismissed.

15. In the result, the appeal is dismissed. The order dated 02.01.2009 in M.V.O.P. No.20 of 2007 passed by the Tribunal is confirmed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

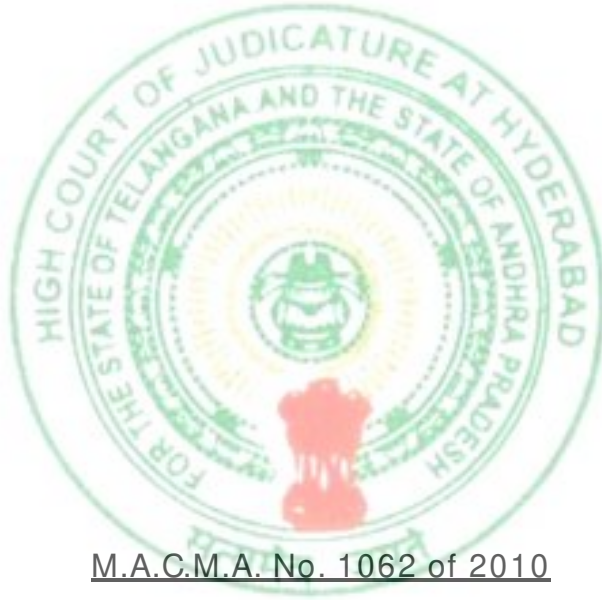
30 March, 2017

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GUDI SEVA SHYAM PRASAD, J

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