

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

CIVIL REVISION PETITION No. 1534 of 2006

ORDER:

This Civil Revision Petition is arising out of the order dated 06.04.2005 in M.V.O.P. No.339 of 2003 on the file of Chairman, Motor Accidents Claims Tribunal, Guntur (for short, 'the Tribunal').

2. The revision petitioner is National Insurance Company Limited, who is the 2nd respondent in the said M.V.O.P filed by the respondents 2 and 3, the owner of the crime auto, and the APSRTC, claiming compensation of Rs.1,00,000/- on account of the injuries sustained by him in the motor vehicle accident.

3. Heard Sri T. Ramulu, learned counsel for the revision petitioner; and also the arguments of respondent No.3-APSRTC on the previous occasion.

4. The contention of the revision petitioner is that as per the evidence of PW2, who is the eye witness, and the documentary evidence of First Information Report and Charge sheet and the circumstantial evidence, the accident occurred due to the rash and negligent driving by the driver of the APSRTC bus. But the Tribunal has found that the accident occurred due to the rash and negligent driving by drivers of both the auto and the APSRTC bus. The said finding is not based on the evidence and the Tribunal has not appreciated the evidence properly. Therefore, the said finding is liable to be set aside.

5. It is further contended that this Court has passed order in similar appeals arising out of the same accident in M.A.C.M.A.Nos.3209, 3210,

3211, 3213, 3277 and 3278 of 2011, and contended that this Court apportioned the liability between the driver of the auto and the APSRTC at 50% each based on the evidence on record; and, therefore, requested to consider the said judgment and pass appropriate orders.

6. Learned counsel for respondent No.3 conceded for the said proposition for apportioning the liability between the auto and the APSRTC, at 50% each, as this Court has already held in the said M.A.C.M.A No.3209 of 2011 and batch, arising out of the same accident.

7. In view of the submissions of the learned counsel for the revision petitioner, and in the light of the judgment of this Court in M.A.C.M.A.No.3209 of 2011 and batch, I am of the considered view that liability can be apportioned between the driver of the auto and the APSRTC at 50% each.

8. In the result, the civil revision petition is allowed in part, apportioning the liability between the driver of the auto and the APSRTC at 50% each, thereby the quantum of compensation awarded by the Tribunal shall be paid by the 2nd respondent-owner of the auto, and the 3rd respondent-APSRTC, at 50% each. No costs. Miscellaneous petitions, if any pending, shall stand closed.

GUDI SEVA SHYAM PRASAD, J

10th March, 2017

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