

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No. 3089 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the erstwhile Andhra Pradesh State Road Transport Corporation, represented by its Managing Director, Musheerabad, Hyderabad, who is respondent No.2 in O.P. No.592 of 1997 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, West Godavari at Eluru (for short, 'the Tribunal'), aggrieved by the order dated 24.12.2001, whereby the Tribunal granted compensation of Rs.1,30,000/- with interest at the rate of 9% per annum from the date of petition till the date of realisation, in favour of the claimant-respondent No.1 herein against the appellant and the driver of the crime vehicle-respondent No.2 herein, for the damage caused to the car of the claimant bearing No.AP 02B 3697 in a motor accident occurred on 21.11.1996 for the alleged rash and negligent act of respondent No.2 herein-driver of the crime vehicle, i.e., APSRTC Bus bearing No.AP 10Z 595.

2. Heard the learned counsel for the appellant-APSRTC and the learned counsel for respondent No.1-claimant. The appeal against respondent No.1-driver of the APSRTC Bus bearing No.AP 10Z 595 is dismissed on 06.01.2012 for default.

3. The parties hereinafter are referred to as arrayed before the Tribunal.

4. Learned counsel for the respondent No.2-APSRTC (appellant) would contend that the Tribunal awarded compensation of Rs.1,30,000/-

with interest at the rate of 9% per annum from the date of petition till the date of realisation; as per Ex.A.5-estimation sheet, the damage caused to the car was Rs.1,00,000/-; moreover, the car was of the year 1982 and the accident occurred on 21.11.1996, i.e., after 14 years of the vehicle coming in the market; the amount awarded by the Tribunal is exorbitant and excessive; the petitioner has no ownership over the said car; and ultimately, prayed to dismiss the claim petition filed by the petitioner by allowing this appeal.

5. On the other hand, learned counsel for the petitioner (respondent No.1 herein) would contend that there are number of documents to show the ownership of the car; there is also evidence to believe that the car was completely damaged; the Tribunal, after analysing the entire evidence on record, had made proper calculation and awarded Rs.1,30,000/- with interest at the rate of 9% per annum from the date of petition till the date of realisation; there is nothing to take a different view; and ultimately, prayed to dismiss the appeal.

6. The specific case of the petitioner is that he purchased car for Rs.2,00,000/- from the original owner-Md. Asif Ahmad, but no documents are filed to show the same. Even Md. Asif Ahmad, Ex-owner of the car was not examined to show that the car was sold for Rs.2,00,000/-. It is not in dispute that the car is of the year 1982 and the accident occurred on 02.11.1996. While dealing with the subject matter, the Tribunal took the value of the car as Rs.1,50,000/-, after deducting depreciation, as the car was sold as a scrape for Rs.20,000/-. By deducting Rs.20,000/- from Rs.1,50,000/-, the Tribunal granted Rs.1,30,000/- in favour of the petitioner. The Tribunal had also relied on Ex.A.5-estimation sheet for

repairs of the car issued by the mechanic showing the damages to the car and the estimation to repair the car as Rs.1,00,000/-. When this Ex.A.5 is on record, the Tribunal could have placed reliance on it to determine compensation payable to the petitioner. The car was 16 years old on the date of accident. The deduction of depreciation is not based on sound principle. Therefore, the Tribunal could have considered Ex.A.5-estimation sheet in assessing the damages. Taking into consideration the said facts, the Tribunal ought to have awarded Rs.1,00,000/- towards damages. Therefore, the petitioner is entitled to Rs.1,00,000/- as compensation for damages to the car. The Tribunal awarded interest at the rate of 9% per annum from the date of petition till date of realisation. In view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹, the rate of interest at 9% is reduced to 7.5% per annum from the date of petition till date of realisation on the compensation amount of Rs.1,00,000/-. Accordingly, this point is answered.

7. In the result, this appeal is allowed in part, modifying the order dated 24.12.2001 passed by the Tribunal in O.P. No.592 of 1997 and the amount of Rs.1,30,000/- granted by the Tribunal is reduced to Rs.1,00,000/- and the rate of interest is also reduced from 9% per annum to 7.5% per annum from the date of petition till date of realisation. The other terms of the order under challenge remained unchanged. There shall be no order as to costs.

¹ 2013 ACJ 1403

8. Miscellaneous Petitions pending, if any, shall stand closed.

Date: 26.10.2017
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Dr. SHAMEEM AKTHER, J

