

THE HON'BLE MS. JUSTICE J. UMA DEVI

MACMA NO. 1186 of 2007

JUDGMENT:

Questioning the award dated 5.12.2005 passed by the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-VI-Addl. District Judge, Nizamabad at Kamareddy in OP No. 448 of 2001 the present appeal is filed by the Andhra Pradesh State Road Transport Corporation represented by its Manager Director and Depot Manager who are arrayed as respondents 1 and 2 in the abovementioned OP.

The claimant in the abovementioned OP has laid the claim as against the APSRTC for compensation of Rs.2,00,000/- in respect of the injuries sustained by her in a motor vehicle accident dated 12.9.2000. It is her case that on 12.9.2000 while she was traveling in an RTC bus bearing No. AP-10-Z-3086, belonging to the respondents 1 and 2 in the abovementioned OP from Kamareddy towards Gandhari and at about 1.45 P.M., when the bus reached Bhoompally bus stage, the driver of the bus drove it in a rash and negligent manner with high speed and hit the bus to the right side bridge and as a result of it, the bus turned turtle, and the claimant received injuries to her left hand, both legs, fracture injuries to both side of her ribs and to her back bone apart from the injuries on other parts of her body. Immediately after the accident, she was taken to Gandhari hospital and there she was provided with first aid, and from there she was taken to Government Hospital, Kamareddy and there she was treated by a team of doctors. In the hospital at Kamareddy, her left hand was

operated and a rod was inserted. She spent Rs.80,000/- towards medical treatment. It is also her contention that prior to her involvement in the above accident she was getting Rs.6,000/- per month by attending to coolie work. Due to the fracture injuries received by her to her left hand, she is not in a position to attend to coolie work at present and that the accident caused to her made her suffer mentally, physically and financially.

The claim made by the claimant was resisted by the appellants-Corporation by filing an elaborate counter. Its main contention was that while the bus was being plied between Kamareddy and Banswada, there was mechanical break down of the bus, and on account of the same the driver could not be able to control the bus and that the bus hit the culvert and later rammed into a field. The injuries received by the claimant were simple in nature and that the accident occurred only due to the mechanical failure for which driver was no way responsible.

The Tribunal, relying on the oral testimony of P.W.1 who was the injured eye witness to the accident whose evidence was corroborated by the documentary evidence viz., the certified copies of FIR, charge sheet and injury certificate, came to a conclusion that the accident dated 12.9.2000 in which the claimant said to have received injuries, occurred due to the negligent driving of the RTC bus bearing No. AP-10-Z-3086 by its driver.

The appellants, to substantiate its contention that the accident occurred due to mechanical failure, did not choose to produce oral or

documentary evidence. Neither the report of Motor Vehicle Inspector nor any mechanic of A.P.S.R.T.C. was examined by the A.P.S.R.T.C. to prove its contention that the accident occurred due to mechanical defect. Since no evidence is placed before the Court by the appellants-Corporation establishing its contention that there was no negligence on the part of the driver of the bus in causing the accident and that the accident occurred due to mechanical defect, it is difficult to hold that the Tribunal has come to a wrong conclusion that the accident occurred only due to the rash and negligent driving of the RTC bus by its driver.

Relying on the testimony of P.W.1 whose evidence clinchingly establishes the fact that the accident occurred due to the negligent driving of the RTC bus bearing No. AP-10-Z-3086 by its driver, the Tribunal has rightly held that the driver of the bus was at fault and due to the negligent driving of the bus by him, the accident in question had occurred.

The Tribunal, relying on the evidence of P.W.2-Dr. Janardhan whose evidence is clear and categoric to the effect that the claimant sustained a simple injury on her right leg and a grievous injury to lower end of left ulna, has rightly awarded compensation of Rs.51,000/-. The Tribunal, on close scrutiny of the evidence of P.Ws. 1 and 2, has awarded compensation of Rs.20,000/- in respect of fracture injury and Rs.3,000/- towards simple injury.

Since the claimant sustained fracture injury to her left ulna, due to which she could not be able to attend to coolie work for a period of

six months, the Tribunal had rightly awarded a sum of Rs.18,000/- towards loss of earnings and also sum of Rs.10,000/- under the head of pain and suffering.

No substantial grounds are made out by the appellants-Corporation to order for setting aside the award passed by the Tribunal awarding compensation of Rs.51,000/- which, according to this Court, is just and reasonable.

In the light of my above discussion, the appeal filed by the APSRTC fails and the same is dismissed accordingly. Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

Dt.15.12.2017
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