

HON'BLE SRI JUSTICE G.SHYAM PRASAD

MACMA No.382 OF 2006

JUDGMENT:

This appeal is arising out of the order, dated 30.11.2005, in O.P.No.171 of 2004 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge (FTC), Khammam at Kothagudem (for short, "Tribunal").

2. The appellant filed O.P.No.171 of 2004 claiming compensation of Rs.70,000/- on account of the damages caused to his tractor trailer bearing No.AP20T 9374/9375 in a motor vehicle accident. The accident occurred when the first respondent driving the APSRTC bus bearing No.AP11Z 1920 in a rash and negligent manner. Therefore, the appellant claimed compensation of Rs.70,000/- for replacement of the damaged parts and for getting them repaired.

3. The Tribunal, on consideration of the evidence of PW.1 and the documents Exs.A.1 to A.6, has dismissed the OP. Challenging the same, the claimant filed the present appeal.

4. Heard Sri Siva Prasad, learned counsel, representing Sri V.Venugopala Rao, learned counsel for the appellant. None appeared on behalf of the respondents.

5. Learned counsel for the appellant submits that the Tribunal held that rash and negligent driving on the part of

the driver of the bus is proved, but it has not awarded any compensation towards damages caused to the tractor. He further submits that though the appellant has filed Ex.A.5, bills showing the purchase of spare parts to a tune of Rs.53,298/- for repairing the tractor, the Tribunal did not sanction any amount on the ground that no witness was examined to prove Ex.A.5 bills. Therefore, he sought for setting aside the order of the Tribunal and for award of compensation to the appellant on account of damages caused to the tractor.

6. This is a case pertaining to the year 2000. There is no representation on behalf of the respondents. Therefore, the arguments of the respondents are deemed heard and proceeding to dispose of the matter basing on the material available on record.

7. The Tribunal has clearly held that there is rash and negligence act on the part of the driver of the bus. In the said accident, there is damage caused to the tractor. The Tribunal, having held that there is rash and negligent driving on the part of the driver of the bus, has failed to award any compensation for the damages caused to the tractor. The only ground stated by the Tribunal was that no witness was examined to prove Ex.A.5 bills. In fact, P.W.2, the owner of the tractor, has come to the witness box and deposed about the accident and filed Ex.A.5 bills to a tune of Rs.53,298/-. No doubt, the appellant has claimed compensation of

Rs.70,000/- towards damages. Ex.A.5 only shows that the appellant has incurred an expenditure of Rs.53,298/-. In cases like this, there may be a possibility of placing some exaggerated figure while claiming the compensation. More particularly, when there is no specific evidence of the concerned witnesses to speak about the exact amount incurred for the damages, a notional amount can be awarded. The Motor Vehicles Act is a beneficial legislation.

8. The standard of proof in case of motor accident is neither beyond reasonable doubt nor preponderance of probability. The standard of proof is in between these two. The strict rules of the Evidence Act need not be made applicable in cases of motor accidents. Since the accident is proved and there appears that there is some damage to the tractor of the appellant and Ex.A.5 bills are produced, a notional amount of Rs.30,000/- can be awarded in this case, which would meet the ends of justice. As a matter of fact, the bills were marked before the Tribunal and no objection was raised by other side while marking them. There were no steps taken by the APSRTC to disprove those bills. On the other hand, P.W.1 came to the witness box and stated that he incurred the expenditure and filed Ex.A.5 bills.

9. In the result, the appeal is partly allowed. The order of the Tribunal dated 30.11.2005 in O.P.No.171 of 2004 is set aside. An amount of Rs.30,000/- is awarded to the appellant towards damages with costs and interest @ 7.5% per annum

from the date of petition till the date of realization. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any, pending shall stand closed.

G. SHYAM PRASAD, J

Date: 02.01.2017
TJMR

