

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.M.A.No. 3982 OF 2003

J U D G M E N T:

This Appeal by the State-owned Road Transport Corporation was filed aggrieved by the Award dated 21.11.2002 in O.P. No. 717 of 1999 on the file of the Motor Accident Claims Tribunal-cum-Additional District Judge, Nizamabad.

The respondent herein filed the above-said O.P. under Section 166 of the Motor Vehicles Act, 1988 claiming Rs.1,50,000/- towards compensation for the injuries and fractures sustained by him in the accident occurred on 05.03.1999, at about 01.00 P.M., while he was travelling in the jeep bearing Registration No. APR 5486 near Tadwai Village. According to him, one RTC bus bearing Registration No. AP 10 Z 3074 came with a high speed and in a rash and negligent manner and hit against the jeep. The Tribunal, after analysing the evidence adduced before it, both oral and documentary, had come to the conclusion that the accident in question occurred due to the rash and negligent driving of the driver of the Corporation's bus, wherein, the respondent had suffered 50% permanent partial disability and hence, awarded Rs.1,20,000/- towards compensation, with interest at 9% per annum from the date of petition till realization, with proportionate costs.

Learned Standing Counsel for the appellant - Corporation disputes the very occurrence of the accident on the fateful day, in view of the discrepancy in the evidence of P.W.1 and the documents produced by him and hence, questions the Award on the ground that the Tribunal erred in holding that the claimant

sustained injuries due to the rash and negligent driving of the driver of the corporation.

Per contra, learned counsel for the respondent claimant submits that there is no error committed by the Tribunal in awarding the compensation to the claimant, and therefore, the order under Appeal does not warrant any inference, at the hands of this Court.

As regards the contention raised by the learned Standing Counsel for the Corporation is concerned, according to the version of the claimant itself, he had taken treatment at Kamareddy and thereafter, he was referred to Gandhi Hospital for further treatment. The reference is alleged to have been made on 07.02.1999 which was marked as Ex.A3, whereas the accident occurred on 05.03.1999. The evidence produced before the Tribunal i.e. Ex.A10 –Discharge ticket shows that the clamant was treated for two injuries from 08.03.1999 to 14.03.1999. It is the contention of the appellant that it may be possible that the claimant might have been treated by the Gandhi Hospital as per Ex.A10, between 08.03.1999 and 14.03.1999. However, as the accident itself had occurred on 05.03.1999, the claim of the claimant that he was treated as per the reference letter dated 07.02.1999 under Ex.A3 falsifies the very theory of occurrence of accident on 05.03.1999.

P.W.2 Dr. L. Ramulu, who is an Orthopaedic Surgeon, deposed that on 16.12.2001, he examined the claimant physically and clinically and found malunited fracture of pelvis, restricted movements of both joints, rupture of urethra and assessed the disability at 50% permanent partial and thus, issued Ex.A15 Disability Certificate.

Here, this Court takes judicial notice of the fact that Dr. Ramulu, Orthopaedic Surgeon was found to have been issuing various false certificates and as a matter of fact, the certificates issued by him were discredited and disbelieved by the Courts in a number of cases. Likewise, one another Dr. Narsing Rao was also alleged to have been involving in issuing false documents. This Court also takes note of the fact that while the accident is said to have occurred on 05.03.1999, the Disability Certificate was issued on 16.12.2001. In those circumstances, this Court has no hesitation to hold that the evidence adduced through P.W.2 is not reliable and trustworthy.

With respect to occurrence of the accident on 05.03.1999, except examining the claimant and marking the First Information Report, there is no independent evidence produced before this Court to establish that there was an accident and the Corporation's bus involved in the said accident. In that view of the matter, the Award of the Tribunal holding that the bus of the Corporation involved in the accident and the claimant sustained injuries due to its rash and negligent driving by the driver, is liable to be set aside.

The Appeal is accordingly allowed, setting aside the Award order dated 21.11.2002 in O.P. No. 717 of 1999. It is open for the appellant to take steps for recovery of the amount, which was paid pending disposal of the Appeal, in accordance with law. No costs.

CHALLA KODANDA RAM, J

07th December 2017

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