

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No.871 of 2010

JUDGMENT:

1. This appeal is arising out of the order, dated 19-06-2009 passed in M.V.O.P.No.657 of 2007 by the Motor Vehicle Accident Claims Tribunal-cum-III Additional District and Sessions Judge, (Fast Track Court) at Medak.

2. The appellant is the District Collector, Medak at Sangareddy – respondent No.2 in M.V.O.P.No.657 of 2007, filed by the petitioner/injured under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.3,00,000/- for the injuries sustained by him in a road accident occurred on 24-02-2006 in the limits of Sarafpally village of Pulkal mandal.

3. On the fateful day, the petitioner was proceeding on a motorcycle bearing No.AP-23-D-6293 along with his friend to Sangareddy from Medak and when he reached the limits of Sarafpally village at about 3.30 P.M. one Government Jeep bearing No.APB-7463 came in opposite direction driven in rash and negligent manner dashed the motorcycle. The petitioner sustained fracture and bleeding injuries due to the said accident. He was shifted to Government Hospital, Sangareddy and from there to Mythri Super Specialty

Hospital, Hyderabad, where he was treated as inpatient for 17 days and spent Rs.1,00,000/- towards medical expenses.

4. The Police registered a case in Crime No.19 of 2006 under Section 337 of the I.P.C. against the driver of the jeep – respondent No.1.

5. Respondent No.1 filed counter denying the occurrence of the accident. It is stated that on 24-02-2006, respondent No.1 was on Government duty and returning from headquarters Sangareddy to Narayankhed with stock of children medicines. He stopped the jeep at Sarafpally village and at that time one motorbike carrying two persons driven in rash and negligent manner and dashed the stationed Jeep. Due to which the petitioner sustained injuries. It is further stated that on the date of the accident he was on Government duty and therefore, he is not liable to pay any compensation to the petitioner and sought for dismissal of the petition.

6. The 2nd respondent filed counter denying the averments mentioned in the petition with regard the rash and negligent act on the part of the driver of the crime vehicle. It is contended that the accident occurred due to the rash and negligent driving of the petitioner and therefore, sought for dismissal of the petition.

7. On consideration of the pleadings of both the parties and on considering the evidence of PWs.1 and 2 and Exs.A-1 to A-5 and the evidence of RWs.1 and 2, the Tribunal framed three issues and answered issue No.1 holding that the Driver of the jeep has driven it in rash and negligent manner and he was responsible for the accident. It is held in issue No.2 that the petition is not bad for non-joinder of necessary parties, and as far as issue No.3 is concerned Tribunal awarded compensation of Rs.95,000/- with interest at 7.5% per annum as against the claim of the petitioner of Rs.3,00,000/-.

8. The points arise for consideration in this appeal are as follows:

1. *Whether the accident occurred due to the rash and negligent driving of the driver of the crime vehicle Jeep bearing No.APB-7463?*
2. *Whether the quantum of compensation awarded by the Tribunal is excessive?*

9. Heard the arguments of learned Government Pleader for Arbitration for the appellant and Sri T.V. Ramana Rao, learned counsel for the respondents.

10. This appeal is preferred by the District Collector, Medak at Sangareddy – 2nd respondent in M.V.O.P.No.657 of 2007.

On behalf of the appellant it is contended that the vehicle in question was parked on the road side by its driver, for verifying the stock of medicine in the vehicle, and at that time the driver of the motorcycle – respondent No.1 herein has driven it in rash and negligent manner and dashed against the Jeep, therefore, it is contended that the accident occurred due to rash and negligent driving of the driver of the motorcycle and not due to the driver of the Jeep. It is further contended that the criminal Court acquitted the driver of the Jeep.

11. This is a case of collision between a motorcycle and a van. It is the case of appellant that the van was parked by the side of the road, for verification of stock by its driver. In the meanwhile, the motorcycle came at a high speed and dashed the van. It is the evidence of RW1, the driver of the van, that the accident occurred due to the rash and negligent driving of the driver of the motorcycle. It is the case of the claimant that he came on motorcycle carefully, but the van came in opposite direction and dashed against the motorcycle, due to the rash and negligent driving of the driver of the van.

12. The driver of the crime vehicle was examined as RW-1. The Tribunal has disbelieved the version of RW-1 as it is improbable. The reason stated by the driver of the crime

vehicle that he has stopped his vehicle on the road for verification of the stock is unbelievable.

13. Usually, the stock would be verified at the starting point or at the receiving point and it is not probable to verify stock by parking the vehicle on the road during the journey. It is obvious that the driver has invented the story only to get rid of the liability. Therefore, the Tribunal disbelieved the version of RW-1 and believed the version of PW-1. PW-1 was the rider of the motorcycle and an injured witness. His version is probable as while he was riding the motorcycle, the Jeep driven by RW-1 came at high-speed and dashed against his motorcycle, and that is how accident occurred. It is obvious that the Criminal Case was also registered against the driver of the crime vehicle, which had ended in acquittal. The records pertaining to criminal Court are not available for knowing the cause of acquittal. However, the findings of the criminal Court are not binding on the Tribunal. The Tribunal considered the evidence of PW1 and RW1, and came to the conclusion that the accident had occurred due to the rash and negligent act, on the part of the driver of the crime vehicle.

14. It is obvious that the accident occurred out of the use of motorcycle in a public place. There is a clear finding by the

Tribunal that the accident occurred due to the rash and negligent driving of the driver of the crime vehicle. Therefore, I do not see any valid grounds to interfere with the findings of the Tribunal with regard to the finding of negligence on the part of the driver of the Jeep.

15. It is contended that the Tribunal has awarded excessive compensation by awarding Rs.15,000/- towards future medical expenditure without there being any evidence.

16. It is contended by learned counsel for the respondent that the Medical Officer – PW2 has stated in his evidence that the injured has to undergo a further operation in future for removal of implant, which may cost Rs.50,000/- but the Tribunal has awarded only Rs.15,000/- for removal of implants.

17. In the light of the evidence of PW2, it is obvious that the petitioner has to undergo one more operation and it is nothing but future medical expenditure. The Medical Officer-PW2 has also assessed the approximate medical expenditure as Rs.50,000/- but the Tribunal has awarded Rs.15,000/-, which is reasonable, as such the said amount awarded by the Tribunal cannot be reduced. Therefore, I do not see any valid grounds to interfere with the findings of the Tribunal in this

regard. As there are no merits in the appeal the appeal is liable to be dismissed.

18. In the result, the appeal is dismissed. There shall be no order as to costs.

19. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

G. SHYAM PRASAD, J

March 27, 2017

PN



THE HON'BLE SRI JUSTICE G. SHYAM PRASAD



M.A.C.M.A.No.871 of 2010

March 27, 2017