

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.5242 of 2008

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/APSRTC aggrieved by the grant of compensation of Rs.3,35,000/- with proportionate costs and interest at 7.5% per annum from the date of petition till realization, as against a claim of Rs.7,00,000/-, by the Chairman, Motor Accidents Claimants Tribunal-cum-V Additional District and Sessions Judge, Tirupati, (for short, "the Tribunal") *vide* order, dated 05.06.2007, passed in M.V.O.P.No.538 of 2003.

2. Heard the learned Standing Counsel for the appellant-APSRTC, Sri Raja Sripathi, learned counsel for respondent No.1, Sri P.Govind Reddy, learned counsel for Respondent No.2, Sri Kota Subba Rao, learned Standing Counsel for respondent No.3, the New India Assurance Company Limited and perused the record.

3. Learned Standing Counsel for the appellant-APSRTC would contend that there was no rashness or negligence on the part of the driver of the APSRTC bus bearing registration No.AP-03-V-3979 in causing the subject accident to the claimant; that there is no proof of age and income of the claimant; that the Tribunal granted excessive compensation of Rs.3,35,000/- and interest thereon and ultimately, prayed to set aside the impugned order by allowing the appeal.

4. On the other hand, learned counsel for respondent No.1- claimant would contend that due to the rash and negligent driving of driver of the RTC bus, the claimant sustained grievous injuries; that the Tribunal, on over all consideration of evidence on record, granted compensation of Rs.3,35,000/- under different heads; that there is an ample evidence on record to prove that the accident occurred due to rash and negligent driving of driver of RTC bus; that the award of compensation by the Tribunal is based on the evidence on record; that there is no infirmity in the finding of the Tribunal; that there is nothing to take a different view and ultimately, prayed to dismiss the appeal.

5. In view of the above submissions, the points that arise for consideration in this appeal are:

1. Whether the subject accident occurred due to rash and negligent driving of driver of RTC Bus bearing No.AP-03-V-3979?
2. Whether the compensation awarded in favour of respondent No.1/claimant is liable to be set aside?

6. **Point Nos.1 and 2:**

To prove the case of the claimant about rashness and negligence on the part of driver of offending bus, P.Ws.1 to 4 were examined and got marked Ex.A.1-certified copy of FIR, Ex.A.2-certified copy of charge sheet and Ex.A.4-certified copy of judgment in C.C.No.229/03. On behalf of A.P.S.R.T.C, R.W.1 was examined and got marked Ex.B.1-Attested copy of insurance policy and Ex.B.2-India Motor Tariff No.49, apart from marking Ex.C.1-P.D.Certificate and Ex.C.2-P.D.Certificate.

7. The Tribunal, basing on the oral and documentary evidence on record, held that there was rashness and negligence on the part of driver of RTC bus in causing the subject accident resulting in injuries to claimant. The Tribunal dealt with the same elaborately and decided the issue in favour of claimant. There is nothing to take a different view and there is no infirmity in the said finding of the Tribunal.

8. Further, Exs.C.1 and C.2 also show that the claimant sustained disability at 25% and the same was taken into consideration by the Tribunal for assessing the loss of income of the claimant. At the time of accident, the claimant was aged about 26 years and due to the accident he was unable to perform his duties as Mechanic. Therefore, Tribunal granted an amount of Rs.3,35,000/- towards compensation under different heads. The calculation and Award is based on the evidence on record. Under these circumstances, the compensation awarded by the Tribunal is just and reasonable. Accordingly, the points are answered in favour of the claimant against the appellant.

9. In the result, the appeal is dismissed confirming the order, dated 05.06.2007, passed in M.V.O.P.No.538 of 2003, by the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District and Sessions Judge, Tirupati.

Miscellaneous Petitions pending, if any, shall stand closed.
There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

AUGUST 16, 2018
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THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER



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Date:16.08.2018

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