

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

C.M.A.NO. 2574 OF 2004

JUDGMENT:

This appeal is preferred by the 4th respondent in O.P.No.402 of 1997 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge) West Godavari, Eluru.

2. The respondents 1 and 2 herein filed the said O.P. claiming a compensation of Rs.2,00,000/- under various heads due to the death of one Y.Satya Gandhi who is the husband of the 1st petitioner before the Tribunal and father of the 2nd petitioner.

3. It was alleged in the petition that on 5.12.1997, the said Satya Gandhi went to Bhimavaram and purchased a TV at about 12.40 p.m. and boarded a Metador Van along with some other persons. The van bearing No.ATC 4529 was going to Undi and at about 1.00 p.m. when it reached near Pedameeram, APSRTC bus bearing No.AP 9 Z 9531 coming from opposite direction in a rash and negligent manner dashed the Metador van in which the said Satya Gandhi was travelling. He sustained multiple injuries and he was removed to Government Hospital, Bhimavaram where he died. He was aged about 35 years and was earning Rs.5,000/- p.m. The

claim petition was filed claiming an amount of Rs.2,00,000/- for his death.

4. The 2nd respondent filed a written statement denying the petition averments. The quantum of compensation claimed was also alleged to be excessive. It was further stated that the driver of the Van himself was responsible for the accident and they are not liable to pay compensation.

5. The 4th respondent, Insurance Company, filed a separate written Statement stating that the driver of the Metador Van is also the owner of the said Van and that the averments that the driver was having a valid and effective driving licence, proper route permit, fitness certificate, registration certificate etc., at the material time of the accident are absolutely false. It was also stated that the deceased was travelling in the Van as an unauthorized passenger in contravention of the terms and conditions of the Insurance policy. The accident occurred due to negligence of the RTC bus driver and hence the 4th respondent is not liable.

6. On the above pleadings, the following issues were framed by the Tribunal:

“1. Whether the accident occurred due to rash and negligent driving of the RTC bus bearing No.AP 9Z 9531 driven by the 1st respondent?

2. Whether the petitioners are entitled for compensation, if so to what amount and against which of the respondents?

3. To what relief?"

7. The 1st petitioner was examined as PW1 and PW2 was also examined besides marking Exhibits A1 to A19. RW.1 to 3 were examined on behalf of the respondents besides marking Exs.B1 to B4.

8. On issue No.1, the Tribunal held that the accident occurred due to rash and negligent driving of the RTC bus bearing No.AP 9Z 9531 driven by the 1st respondent. Regarding the total amount of compensation for which the petitioners were entitled, the Tribunal arrived at the figure of Rs.1,67,000/- and awarded the same along with interest @ 9% p.a. from the date of petition till the date of realization, by its order dated 2.11.2001.

9. Challenging the same, the present appeal was preferred by the 4th respondent Insurance Company only on the ground that in O.P.No.400 of 1997 arising out the same accident, the Tribunal dismissed the said petition and hence, the present petition also should have been dismissed as against the appellant. But no copy of the said order was filed before the Tribunal. The present case was independently contested by

the appellant herein and it was held that the accident occurred due to rash and negligent driving of the driver of the APSRTC bus and the liability was fixed on all the respondents jointly and severally.

10. In view of the same, the appeal is dismissed confirming the award of the Tribunal in O.P.No.402 of 1997 dated 2.11.2001.

Pending miscellaneous petitions, if any, shall stand dismissed. No order as to costs.

Date: 10.4.2018

KPM

A. RAMALINGESWARA RAO,J

