

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A.NO.3002 OF 2009

JUDGMENT:

This appeal arises out of the judgment, dated 08.06.2009 in O.P.No.411 of 2007 on the file of the Motor Accident Claims Tribunal (District Judge) at Nizamabad.

2. The appellant who is the Andhra Pradesh State Road Transport Corporation filed this appeal challenging the impugned award.

3. Respondents 1 to 4 have filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.8,00,000/- on account of the death of the deceased-Karamkanti Pedda Sailu, in a motor vehicle accident that occurred on 23.03.2007 at about 5.30 P.M., when an auto was being dashed by APSRTC bus bearing No. AP 10Z 9257.

4. The Tribunal on consideration of evidence of witnesses P.Ws. 1 to 4 and the documents Exs.A1 to A6 and the evidence of R.W.1-conductor of the APSRTC bus, has awarded compensation of Rs.3,79,000/- with interest at 7,.5% p.a. against the appellants herein. Aggrieved by the impugned order, this appeal has been preferred.

5. Heard the arguments of the learned standing counsel for the appellants and the learned counsel for the respondents.

6. Learned standing counsel for the appellants submits that there is no negligence on the part of the driver of the APSRTC bus. On seeing the auto, he stopped the bus and due to the negligent driving of the driver of the auto, he dashed against the bus.

7. The point for consideration in this appeal is whether there is contributory negligence on the part of both the vehicles and whether the judgment of the trial Court suffers from perversity?

8. The conductor of the bus is examined as R.W.1. He stated that the accident occurred due to negligent driving on the part of the driver of the auto. He further states that on 23.03.2007 while he was conducting the bus at about 4.00 P.M., after crossing Sadashiv Nagar, the bus was stopped for boarding of passengers. After boarding of passengers, the bus went for a distance of 1 K.M., then the auto came in the opposite direction, at high speed, with a over load of passengers in it. On seeing the auto, the driver has stopped the bus, that the driver of the auto has driven it in a rash and negligent manner and dashed against the bus. In fact it is revealed in his cross-examination, that police have registered a case against the driver of the bus and filed the charge sheet against him. It is also revealed that even as per F.I.R. and charge sheet, the bus is involved in the accident. In the light of the above, it can be safely concluded that the testimony of R.W.1 is not reliable.

9. It is patent to note that the trial Court on consideration of evidence of P.W.2, who travelled in the auto, and placing reliance on the documents, Ex.A1-certified copy of FIR and ExA2-certified copy of charge sheet, has arrived at a conclusion, that the accident occurred due to rash and negligent driving of the RTC bus. In the light of the foregoing reasons, there is no contributory negligence on the part of the driver of auto. The negligence on the part of the driver of the crime vehicle is established by cogent and consistent evidence. Therefore, the order of the trial Court is

not suffering with and perversity. The well reasoned order does not require interference.

10. In the result, the appeal is dismissed confirming the judgment, dated 08.06.2009 in O.P.No.411 of 2007 on the file of the Motor Accident Claims Tribunal (District Judge) at Nizamabad. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

GUDISEVA SHYAM PRASAD, J

DATED: 14-09-2018

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