

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL MISCELLANEOUS APPEAL No.2600 OF 2004

JUDGMENT:

This Appeal was preferred by the third respondent in M.V.O.P.No.273 of 1998 on the file of the Motor Accidents Claims Tribunal-cum-District Judge, Krishna, at Machilipatnam. The first respondent herein filed the said M.V.O.P.No.273 of 1998 claiming compensation of Rs.4,00,000/- for the injuries sustained by him in a motor accident that occurred on 12.01.1998. It was alleged in the petition that one P.Satyanarayana was proceeding on his cycle, the petitioner sat on the front rod of the cycle. When they reached near drinking water canal bridge at Kalekhanpet, Machilipatnam, at about 9.00 a.m., the first respondent being the driver of the city bus bearing No.AP 16V 216 drove the same in high speed in a rash and negligent manner and dashed the cyclist, as a result of which, both fell down and sustained bodily injuries. The cycle was also damaged. Immediately, they were shifted to the Government Hospital, Machilipatnam, for treatment. The petitioner lost his consciousness due to head injury and he was referred to the University General Hospital, Vijayawada, for better treatment. The police registered a case in Crime No.2 of 1998 against the first respondent. He was treated as in-patient for a period of one year. The petitioner is the only son of his mother, who lost her husband. The driver of the vehicle and the owner remained *ex parte*. The third respondent Insurance Company filed counter affidavit denying the material allegations mentioned in the petition. It was specifically stated that the first respondent was only authorized to drive Light Motor Vehicle Transport (motor cab) at the time of accident and he has no valid and effective driving licence to drive a city bus. Thus, there is a clear breach of policy conditions.

On the basis of the above pleadings, the Tribunal framed the following issues:-

- “1. Whether the accident was due to rash and negligent driving of city bus bearing No.AP 16V 216 by its driver/R-1?
2. Whether the petitioner is entitled to any compensation, if so, to what amount and from which of the respondents? And
3. To what relief?”

On behalf of the petitioner, P.Ws.1 to 4 were examined and Exs.A.1 to A.7 were marked. Exs.X.1 to X.3 were also marked. On behalf of the respondents, R.Ws.1 and 2 were examined and Exs.B.1 to B.3 were marked.

On the basis of oral and documentary evidence, the Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the driver of the city bus bearing No.AP 16V 216. It accordingly awarded an amount of Rs.1,50,000/- along with interest @ 9% per annum from the date of petition, i.e., 21.09.1998 till the date of realization. Respondents 1 to 3 were held jointly and severally liable for payment of the said amount, by its order, dated 31.12.2002. Against the same, the present Appeal was preferred by the third respondent Insurance Company.

Learned counsel for the appellant submits that there was a violation of terms and conditions of the Insurance Policy since the first respondent was empowered to drive only Light Motor Vehicle, whereas he was driving the city bus on the date of accident. He drew the attention of this Court to the evidence of R.W.1. Though the evidence of R.W.1 supports his case, the evidence of R.W.2, who was Junior Assistant in the Transport Unit of Machilipatnam, clearly shows that he was authorized to drive public service vehicles except goods vehicles from 02.01.1995. The said licence of the first respondent was liable to be renewed on 01.01.1998 and the accident occurred on 12.01.1998. The Tribunal took note of the said

contention and held that the first respondent was having valid driving licence to drive public service vehicle, which is a city bus. It held that though the renewal period fell short of twelve days, it is not a serious lapse. Accordingly, it held that the first respondent was having a valid driving licence. The present Appeal was filed only on the ground of violation of terms and conditions of the Insurance Policy mainly focusing on the lack of eligibility of driving the city bus by the first respondent, but the evidence of R.W.2 coupled with Ex.X.3 clearly shows that the first respondent can drive the city bus.

In view of the same, the Civil Miscellaneous Appeal is dismissed by confirming the Order, dated 31.12.2002, passed in M.V.O.P.No.273 of 1998, by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Krishna, Machilipatnam. Consequently, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

10.04.2018
pln

A.RAMALINGESWARA RAO, J

