

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL MISCELLANEOUS APPEAL No.2754 of 2004

JUDGMENT:

This appeal is preferred by the appellant/claimant who sustained the injuries in the motor accident that occurred on 07.10.1998 when he was going on a cycle on the left side of the Cuddapah-Rayachoty road. He filed M.V.O.P.No.30 of 2000 on the file of the Motor Accident Claims Tribunal – cum – District Judge, Cuddapah, claiming an amount of Rs.1,00,000/- for the injuries sustained by him. In the said O.P it was stated that on the said date at about 3.00 pm when he reached the weigh bridge, the driver of the APSRTC bus bearing registration No.AP 10Z 3717 belonging to the respondent came in a rash and negligent manner with high speed and hit the petitioner's cycle causing him grievous injuries. He underwent treatment in the hospital and lost his job as clerk in solvent factory.

The respondent Corporation filed a counter affidavit denying the fault on the part of the driver and stating that in spite of driving the vehicle by the driver slowly, since there was a turning and as the driver observed the cyclist coming with two persons on opposite direction and also noticing the cyclist turning towards right side from left side on the road, in spite of the driver taking the bus to the extreme left side and stopped by applying the sudden break, the cyclist fell down on the road. Thus, the accident took place due to the negligence of the cyclist

himself but not due to the fault of the bus. The employment of the claimant and his earnings were also disputed.

On the basis of the pleadings, the following issues were settled for trial:

“1. Whether the petitioner received injuries in a motor vehicle accident on 7.10.1998 due to rash and negligent driving of Respondent's A.P.S.R.T.C bus bearing No.AP.10Z.3717 by its driver?

2. Whether the petitioner is entitled for compensation and if so to what amount?

3. To what relief?”

Before the Tribunal, the claimant examined himself as P.W.1 and marked Exs.A1 to A15. No oral or documentary evidence was produced on behalf of the respondents.

The Tribunal noticed that in respect of the accident, FIR was also lodged and it was followed by a charge sheet under Exs.A1 to A3 and cast the burden on the claimant to have been cautious while crossing the road.

In the absence of any evidence led by the respondent, the finding recorded by the Tribunal that the claimant himself was responsible for the accident as he was crossing the road towards his right side is not correct. Though there was no dispute with regard to the injuries sustained by the claimant in the accident, since this Court is not in agreement with the finding recorded by the Tribunal on issue No.1, taking into consideration the beneficial legislation, the impugned order passed by the Tribunal on 17.06.2003 is set aside and the

matter is remanded for reconsideration of issue No.1 framed by the Tribunal and depending upon the same to consider the other points framed by it and pass an order afresh on the basis of the evidence already available before the Tribunal. Since the accident is of the year 1998, it is needless to observe that the Tribunal shall dispose of the case as expeditiously as possible, but not later than six months from the date of receipt of a copy of this order.

The appeal is, accordingly, allowed. The miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

12.04.2018
vs



(A.RAMALINGESWARA RAO, J)