

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3278 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-claimant aggrieved by the order dated 23.08.2005 in M.V.O.P.No.311 of 2002 on the file of the Motor Accident Claims Tribunal-cum-III Additional District Judge (Fast Track Court), Cuddapah (for short 'the Tribunal').

2. Heard the learned counsel for the appellant-claimant and perused the record.

3. Though the matter is posted 'for orders', there is no representation for the respondents. This appeal is of the year 2005. It underwent several adjournments. Hence, this appeal can be disposed of on merits basing on the material available on record.

4. Learned counsel for the appellant-claimant would contend that the Tribunal erroneously dismissed the claim petition. The findings of the Tribunal are contrary to law and evidence. The Tribunal erred in finding that the accident occurred due to the rash and negligent driving of the driver (claimant) of lorry bearing No.AP04-T-5958. When a person suddenly crossed the road, the driver of the said lorry tried to turn the lorry, due to which, the lorry turned turtle resulting injuries to the appellant. The compensation of Rs.2,80,000/- claimed by the appellant is just and reasonable. The Tribunal did not properly appreciate the evidence on record and ultimately, prayed to grant the compensation as prayed for.

5. In view of the submissions made by the learned counsel for the appellant-claimant, the point that arises for determination is, whether the appellant is entitled for a compensation of Rs.2,80,000/- against the respondents?

6. The Tribunal based on the evidence placed on record held that the appellant was driving the lorry bearing No.AP-04-T-5958 belonging to 1st respondent and the accident occurred due to his rash and negligent driving. This finding was based on Ex.A1-certified copy of FIR and Ex.A3-charge sheet, wherein the appellant was prosecuted under Sections 279, 337, 338 and 427 IPC. Further, it is pertinent to note that the appellant has withdrawn W.C.No.4 of 2001, which was filed by him for compensation in respect of the said accident. When the appellant himself was responsible for the accident and sustaining injuries due to his negligence, the Tribunal justified in dismissing the claim petition filed by him.

7. In view of the above discussion, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.

No costs.

Date: 10.09.2018
ssp

Dr. SHAMEEM AKTHER, J