

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1087 of 2006 and 1076 of 2006

COMMON JUDGMENT:

These appeals are filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), by the appellants-respective claimants aggrieved by the common order dated 07.03.2006 in O.P.Nos.779 of 2001 and 969 of 2001 on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Ranga Reddy District (for short 'the Tribunal').

2. Heard the learned counsel for the appellants-claimants and the learned Standing Counsel for the APSRTC (Now 'TSRTC') and perused the record.

3. Learned counsel for the appellants-claimants would contend that the Tribunal erroneously held that there is contributory negligence on the part of the rider of the scooter at 25% and the driver of the RTC bus at 75% for the occurrence of subject accident, without there being any evidence on record. The Tribunal had not granted sufficient amount for the injuries suffered by the appellants. The Tribunal granted compensation of Rs.59,000/- to appellant in C.M.A.No.1087 of 2006 as against the claim of Rs.1,25,000/- in O.P.No.779 of 2001, and Rs.51,675/- to appellant in C.M.A.No.1076 of 2006 as against the claim of Rs.1,50,000/- in O.P.No.969 of 2001, and ultimately, prayed to enhance the same.

4. On the other hand, the learned Standing Counsel for the respondent-RTC would contend that there was triple riding by the appellants along with the complainant – Krishna Reddy on the

scooter bearing registration No.AP-28Q/8958 and the same is evident from the evidence of P.W.1. The Tribunal rightly held that there was contributory negligence on the part of the rider of the scooter at 25%. He further contended that the Tribunal had elaborately discussed about the injuries sustained by the appellants, the consequences arose therefrom and granted just and reasonable compensation. There are no circumstances to enhance the compensation and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the points that arise for determination are as follows:-

1. Whether there was any contributory negligence on the part of the rider of the scooter bearing registration No.AP-28Q/8958?
2. Whether the appellants are entitled for enhancement of compensation?

6. POINT No.1:- Though the learned Standing Counsel for the respondent-RTC contended that there was contributory negligence on the part of the rider of the scooter, neither the driver of the RTC bus nor any other person was examined to substantiate the same. With regard to the manner of accident, P.Ws.1 and 2 have attributed negligence on the part of the driver of the RTC bus bearing registration No.AP-9-Z-2150. Further, Ex.A2-charge sheet reveals that there was rashness and negligence on the part of the driver of the RTC bus. There is medical record to substantiate that the appellants suffered injuries in the said accident. It is apt to state that as per the evidence on record, the RTC bus in question came in a rash and negligent manner from back side and dashed the scooter, as a result of which, the appellants fell down and

suffered injuries. Under these circumstances, it cannot be said that the appellants contributed in any manner whatsoever in the occurrence of accident. Further, it can also be concluded that the subject accident occurred due to the rash and negligent driving of the driver of subject RTC bus. Point No.1 is answered accordingly.

7. POINT No.2:- While dealing with the subject matter, the Tribunal has taken into consideration the injuries suffered by the appellants basing on the evidence on record and granted compensation under different heads. Insofar as O.P.No.779 of 2001 is concerned, the Tribunal assessed the total compensation at Rs.78,550/- and after deductions, it awarded a sum of Rs.59,000/-. Insofar as O.P.No.969 of 2001 is concerned, the Tribunal assessed the total compensation at Rs.67,819/- and after deductions, it awarded a sum of Rs.51,675/-. As there is no contributory negligence on the part of the appellants, and as the accident occurred due to the rash and negligent driving of the driver of the RTC bus, no deductions are required to be made. Therefore, the appellant in O.P.No.779 of 2001 is entitled for total compensation of Rs.78,550/- and the appellant in O.P.No.969 of 2001 is entitled to Rs.67,819/- with interest @ 7.5% per annum from the date of petition till the date of deposit on the enhanced compensation.

8. Accordingly, the appeals are allowed in part modifying the common order, dated 07.03.2006, passed by the Tribunal in O.P.Nos.779 and 969 of 2001, enhancing the compensation from Rs.59,000/- to Rs.78,550/- in O.P.No.779 of 2001, and from Rs.51,675/- to Rs.67,819/- in O.P.No.969 of 2001, with interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till the date of deposit. The other terms of the

order under challenge remain unaltered. On such deposit, the appellants-claimants are permitted to withdraw the entire enhanced amount along with the interest accrued thereon.

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

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Dr. SHAMEEM AKTHER, J

Date: 01.10.2018  
ssp

