

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2583 OF 2005

JUDGMENT:

This appeal is filed by the appellants-APSRTC under Section 173 of the M.V. Act, aggrieved by the award, dated 19.04.2005, in O.P.No.810 of 2001, passed by the Motor Accident Claims Tribunal-cum-II Addl. District Judge, West Godavari District at Eluru. wherein compensation of Rs.99,000/- was granted to the claimant.

2. Learned standing counsel for the 5th respondent-Insurance Company is present. No representation for the appellants. On earlier occasions also i.e., on 03.11.2017 and 17.11.2017, there was no representation on behalf of the appellants. This is an old appeal. Therefore, it can be disposed of on merits.

3. Learned standing counsel for the 5th respondent-insurer would contend that there is specific evidence with regard to rash and negligent driving of the RTC bus by its driver and causing injuries to the claimant in this case. The Tribunal had analyzed the entire evidence and rightly concluded the rash and negligent driving of the APSRTC bus bearing No. AP 9Z 9308 by its driver and ultimately fixed the liability against the respondents 1 to 3, who are driver and APSRTC authorities. There is no infirmity in the order passed by the Tribunal and ultimately, prayed to dismiss the appeal.

4. This appeal is filed by the appellants-APSRTC contending that there was rashness and negligence on the part of the driver of the lorry bearing No. AP 20 T 6345. There is specific evidence to that effect

by R.W.1-driver of the APSRTC bus. The Tribunal failed to take the same into consideration. Further, there was collision between two motor cycles and it is erroneous to fix the liability on the appellants and ultimately, prayed to set aside the impugned award.

5. As seen from the evidence placed on record, P.W.1, who is injured in this case, in clear and categorical terms deposed about suffering of injuries by him due to rash and negligent driving of the APSRTC bus bearing No. AP 9Z 9308 by its driver. There is also mention in Ex.A1-copy of F.I.R. and other documents that there is negligent driving on the part of the driver of APSRTC bus. There is ample evidence to substantiate that P.W.1 received injuries in the accident. In view of above evidence, no credibility can be placed on the evidence of R.W.1, who is an interested person and accused in the criminal case. The appellants did not examine any independent person to substantiate their contention. Therefore, the Tribunal had rightly held that injuries were caused due to rash and negligent driving of the APSRTC bus by its driver. Since, there was rashness and negligence on the part of the driver of APSRTC bus, no rashness can be attributed on the part of the driver of the lorry. The Tribunal had rightly tagged the liability against the APSRTC authorities. Further, the Tribunal had relied on the evidence of the injured and Doctor and calculated the compensation payable to the claimant at Rs.99,000/- with interest at 9%p.a., which is just and reasonable. There are no circumstances to vary the same. Therefore, the appeal is devoid of merit and is liable to be dismissed.

6. Accordingly, the Appeal is dismissed confirming the award, dated 19.04.2005, in O.P.No.810 of 2001, passed by the Motor Accident Claims Tribunal-cum-II Addl. District Judge, West Godavari District, Eluru. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 08-06-2018

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