

THE HON'BLE SRI JUSTICE M.GANGA RAO

M.A.C.M.A.No.99 OF 2014

JUDGMENT:

Appellant-Andhra Pradesh State Road Transport Corporation (for short 'the Corporation') filed this appeal against the order and decree dated 30.10.2012 passed in O.P.No.101 of 2011 by the VI Additional District Judge (FTC), Gooty, granting compensation of Rs.2,40,000/- as against the claim of Rs.5,00,000/- to the respondent-claimant for the injuries sustained by him in the road accident that took place on 05.11.2006.

Respondent-claimant filed claim petition under Section 163-A the Motor Vehicles Act against the appellant stating that on 05.11.2006 at about 11.30 p.m. when the claimant was driving the APSRTC Bus bearing No.AP-11Z-4254 from Anantapur to Hyderabad and when the bus reached near Micro Wave Station, Anantapur, another bus bearing No.AP-28-Z-299 came in opposite direction in a rash and negligent manner at high speed, lost control over it and hit against the bus being driven by the claimant, due to which the claimant sustained severe injuries. Immediately, he was shifted to Government Hospital, Anantapur, and from there he was shifted to NIMS Hospital, Hyderabad, for better treatment. A case in crime No.142/2006 was registered by B.K.Samudram Police. It was further stated that the claimant was aged 41 years, working as a driver and earning Rs.10,000/- per month at the time of accident. Due to the injuries received in the accident, he became permanently disabled. He incurred

Rs.1,00,000/- for medical and other expenses. Hence, he claimed compensation of Rs.5,00,000/-.

Appellant-Corporation filed a counter affidavit before the Tribunal disputing the material averments of the claim petition and specifically contending that there was rash and negligence on the part of the claimant-injured in causing the accident. Thus, pleaded to dismiss the claim petition.

Based on the above pleadings, the Tribunal framed the following issues for its consideration:

- 1) Whether the accident occurred on 05.11.2006 due to rash and negligent driving of the Bus bearing No.AP-11-Z-4254 by its driver and caused the injuries to the petitioner?
- 2) Whether the petitioner is entitled to compensation? If so, to what amount?
- 3) To what relief?

On behalf of the respondent-claimant, PWs 1 and 2 were examined and Exs.A.1 to A.5 were got marked. On behalf of the appellant-Corporation, no oral and documentary evidence was adduced.

The Tribunal based on the evidence of PW.1 coupled with Exs.A.1 and A.2 held that the respondent-claimant sustained injuries in the road accident occurred on 05.11.2006. The Tribunal also held that since the claim petition was filed under Section 163-A of the M.V.Act, the rash and negligence need not be discussed.

As regards quantum of compensation, the Tribunal held that due to the injuries sustained by the respondent-claimant in the accident, he cannot attend his duties as driver for six months and thereafter for six months he needs bed rest. Hence, the Tribunal

granted Rs.1,00,000/- towards loss of earnings, loss to his estate and future loss of earnings. That apart, the Tribunal granted Rs.50,000/- towards pain and suffering, mental agony and inconvenience, etc, Rs.20,000/- towards transportation charges, Rs.20,000/- towards extra nourishment, Rs.30,000/- towards attendant charges and Rs.20,000/- towards medical expenses. Thus, in all, the Tribunal granted the total compensation of Rs.2,40,000/-.

The learned counsel for the appellant-Corporation would contend that the Tribunal failed to see that the accident was occurred due to the negligence of the respondent-claimant in driving the bus bearing No.AP-11-Z-4254. Even the Joint Action Committee report made it clear that the respondent-claimant drove the vehicle in a rash and negligent manner with over speed. Hence, the Corporation is not liable to pay the compensation.

Per contra, learned counsel for the respondent-claimant made his submissions to sustain the impugned award passed by the Tribunal.

In this appeal, the appellant mainly disputes the rash and negligence on the part of the driver of the bearing No.AP-28-Z-299 in causing the accident. The appellant does not seriously dispute the quantum of compensation.

Except taking the plea of rash and negligence on the part of the claimant in causing the accident both before the Tribunal as well as this Court, the appellant has not led any evidence either oral or documentary to prove the same. The appellant has not even produced the alleged report of the Joint Action Committee

wherein it was held that the respondent-claimant was responsible for the accident, as claimed by the appellant. Further more, the documents marked on behalf of the respondent-claimant, more particularly Ex.A.1-certified copy of FIR, would clearly disclose that the accident was occurred due to the rash and negligence on the part of the driver of the bus bearing No.AP-28-Z-299. In the absence of any evidence in support of the claim of the appellant, this Court is of the considered view that there is no illegality or irregularity in the finding of the Tribunal fastening liability on the appellant. I see no merits in the appeal.

Therefore, the appeal is dismissed.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

21.12.2018
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