

HONOURABLE SRI JUSTICE P. KESHA RAO

M.A.C.M.A.No.1576 of 2011

JUDGMENT:

Heard the learned counsel for the appellant Corporation and the respondents.

The present appeal came to be filed questioning the award passed in O.P.No.770 of 2007, directing the appellants to pay a sum of Rs.3,45,500/- with interest @ 7% per annum from the date of petition to the respondents herein.

The facts of the case are that the 1st respondent i.e., PW.1, on 30.04.2007, while going along with his wife i.e., the deceased, at about 12.30 noon when they reached I.S. Sadan towards Saiddabad cross roads, a RTC bus bearing No.AP 10 4207 came in rash and negligent manner and dashed against his scooter. As a result, both of them fell down and sustained injuries. The deceased succumbed injuries on the way to the hospital. Therefore, the respondents filed O.P.No.770 of 2007 claiming a sum of Rs.5 lakhs towards compensation.

On trial, the learned Tribunal awarded a sum of Rs.3,45,500/- with interest @ 7% per annum from the date of petition till the date of deposit with proportionate costs by judgment dated 11.09.2009. Aggrieved by the same, the present appeal is filed.

Learned counsel appearing for the appellant Corporation basically contended that at the time of accident, RW.1 was not driving the vehicle. Involvement of the subject vehicle in the accident was not proved. No witness was examined to prove that the subject vehicle is the same vehicle which caused the accident.

Learned counsel also contended that the accident was occurred due to negligence on the part of the driver of the scooter i.e., PW.1.

Per contra, learned counsel appearing for the respondents supported the impugned judgment. He contended that the evidence of PW.1 clearly established the rash and negligent driving of RW.1. Since the application is filed under Section 163-A of the Motor Vehicles Act, the respondents are not under obligation to prove the rash and negligent driving. Even then, the evidence of PW.1 is clear in establishing the rash and negligent driving of RW.1 leading to the accident.

Having heard both the counsel and from a perusal of the material on record, the issue that arises for consideration is:

Whether RW.1 was not driving the offending vehicle at the relevant point of time and whether the offending vehicle was not involved in the accident?

PW.1 in his examination, categorically pleaded that on 30.04.2007 when he and his wife were going on scooter, the RTC bus bearing No.AP 10 4207 driven by RW.1 in rash and negligent manner dashed against the scooter resulting in the death of his wife. Though the learned counsel appearing for the appellant Corporation contended that the subject vehicle was not involved in the accident and RW.1 was not driving the said vehicle at the relevant point of time, no evidence was let in except RW.1. As far as the evidence of RW.1 is concerned, it is self-serving.

However, the respondents have marked Exs.A1 to A8, more particularly, Exs.A1 to A3 and A7 relate to registration of FIR, inquest report, remand case diary part-I and the copy of the charge sheet. In Ex.A7 i.e., charge sheet, it is mentioned that on

investigation and after examining the witnesses, it is well established that the accused, D.Beeraiah, i.e., RW.1, who was driving the subject vehicle, drove the same in rash and negligent manner with high speed and dashed PW.1's scooter bearing No.AP 28 N 674 from its backside near M.S. Brothers, Saidabad Main Road. Due to the said accident, the wife of PW.1 fell down on the road, received head injury and was declared dead at Owaisi Hospital. Even in Ex.A4 i.e., postmortem report, it is mentioned that the deceased succumbed to head injury. When the evidence of PW.1 is corroborated by the documentary evidence, the contention of the learned counsel for the appellants that the respondents failed to establish that the subject vehicle was not involved in the accident and RW.1 was not driving the said vehicle, cannot be countenanced.

In these circumstances, this Court is of the opinion that there are no merits in the appeal and the same is liable to be dismissed.

Accordingly, the appeal is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date: 04.01.2019.
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