

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2066 OF 2015

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Award and Decree dated 08.06.2015 passed in M.V.O.P.No.570 of 2010 by the Additional Motor Accident Claims Tribunal-cum-Judge, Family Court-cum-IV Additional District and Sessions Judge, Adilabad (for short, the Tribunal).

2. The brief facts of the case are that on 18.12.2009 at about 7.00 PM., while the claimant was traveling in an RTC bus bearing No.AP28Z 524 as a passenger in order to go to Echoda from Neradigonda, and when the RTC bus reached near Kupti bridge, the driver of the bus drove it in a rash and negligent manner with high speed and dashed to a lorry bearing No.AP36W 0953 coming from opposite direction. In the said accident, the claimant sustained multiple grievous injuries. The claimant filed the aforesaid MVOP against respondent Nos.1 to 3, i.e., RTC, owner and insurer of lorry, respectively, claiming compensation of Rs.10,00,000/- for the injuries sustained by him.

3. Before the Tribunal, respondent No.2 remained *ex parte*. Respondent Nos.1 and 3 filed their separate counters denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the Tribunal came to the conclusion that the claimant failed

to prove that he sustained injuries while he was travelling in the aforesaid RTC bus as a passenger and therefore, the respondents are not liable to pay any compensation and accordingly, dismissed the MVOP. Aggrieved by the said award, the appellant filed the present appeal.

5. Heard.

6. During the course of arguments, the learned counsel appearing for the claimant, to prove that the claimant sustained injuries while travelling in the said RTC bus, has placed before this Court a copy of the final report in Crime No.159 of 2009 of Neradigonda Police Station, wherein the name of the claimant is shown at Sl.No.54 as injured passenger of RTC bus bearing No.AP28Z 524.

7. A perusal of the Award of the Tribunal, it is clear that copy of the final report in Crime No.159 of 2009 was not brought to the notice of the Tribunal and hence, the Tribunal dismissed the MVOP on the ground that the claimant failed to prove that he sustained injuries while he was travelling in the aforesaid RTC bus. A perusal of copy of the final report in Crime No.159 of 2009, *prima facie*, this Court feels that it is a fit case to remand the matter to the Tribunal for disposal afresh, as the same was not brought to the notice of the Tribunal.

8. In the result, the Motor Accident Civil Miscellaneous Appeal is allowed remanding the matter to the Tribunal for disposal afresh,

as expeditiously as possible, by taking into consideration the final report in Crime No.159 of 2009 of Neradigonda Police Station, by affording opportunity to both sides. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 16.08.2019
TJMR

