

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.Nos.513 and 514 of 2010

COMMON JUDGMENT:

Since both these appeals arise out of the same accident, they are being disposed of by this common judgment.

2. The appellants-APSRTC filed both these appeals against the orders and decrees dated 15.12.2009 passed in O.P.Nos.448 and 449 of 2007 by the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Nizamabad (for short, the Tribunal).

3. The brief facts of the case are that on 26.05.2006 at about 8.00 PM., while the deceased persons, namely, Baby and Irfana @ Sonu Begum, were traveling in an auto bearing No.AP-1/V-1911 along with others from Nirmal to Khanapur side and when the auto reached at the outskirts of Kondapur village on Nirmal to Mancheriyal road, a bus bearing No.AP-9/Z-9024 driven by its driver in a rash and negligent manner at high speed on wrong side of the road and dashed against the auto, due to which the auto fell down and the bus ran over the deceased persons, who sustained fatal injuries and succumbed to those injuries. Immediately after the accident, the driver of the bus ran away from the scene of offence and surrendered himself before the Police Station, Nirmal, where a case in Cr.No.34 of 2006 was registered for the offences punishable under Sections 337, 338 and 304-A IPC, against him, and after completion of investigation, charge sheet was filed.

4. The respondents filed common written statement denying the allegations made in the claim petitions *inter alia* contending that the amount of compensation claimed by the petitioners is excessive, exorbitant, imaginary and out of proportion and sought to dismiss the petitions.

5. During the course of trial, the petitioners in O.P.No.448 of 2007 examined P.Ws.1 to 3 and got marked Exs.A1 to A6. The petitioners in O.P.No.449 of 2007 examined P.Ws.1 to 3 and got marked Exs.A1 to A6. On behalf of the respondents, R.W.1 was examined, but no document was marked, in both the O.Ps.

6. After considering the oral and documentary evidence adduced on both sides, the Tribunal has categorically held as per the charge sheet-Ex.A2 that the accident occurred due to rash and negligent driving of the driver of the bus.

7. Though the learned counsel for the appellants contended that there was contributory negligence on the part of the driver of auto, no such issue was framed by the Tribunal and no case has been made out before the Tribunal on the said point. In the absence of such defence before the Tribunal, the appellants cannot raise the same in the present appeals. Since the entire argument is based on the ground of contributory negligence, the same cannot be gone into these appeals. Hence, I see no reason to interfere with the orders impugned and the appeals are liable to be dismissed.

8. Accordingly, both the appeals are dismissed confirming the orders impugned.

9. Miscellaneous petitions, if any pending in these appeals, shall stand dismissed. No order as to costs.

T.AMARNATH GOUD, J

12th June, 2019

sj

