

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**THURSDAY ,THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE NAGESH BHEEMAPAKA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 1974 OF 2008

Appeal Under Section 173 of Motor Vehicles Act against the order and decree in O.P.No.524 of 1997 dated 29.03.2004 on the file of the Court of the Chairman Motor Accident Claims Tribunal-cum-II Additional District Judge, R.R.Dist at L.B. Nagar.

Between:

1. Smt. M. Ramulamma, (died)
2. M. Srinivas, S/o. Late M. Laxmaiah, R/o. 1-3-843, Kawadiguda, Hyderabad.

...APPELLANTS/PETITIONERS

AND

The Regional Manager, APSRTC, Imblibun Bus Station, Gowliguda, Hyderabad.

...RESPONDENT/RESPONDENT

Counsel for the Appellant: SRI. Y. ASHOK RAJ

Counsel for the Respondent: NONE APPEARED

The Court made the following: JUDGMENT

HONOURABLE SRI JUSTICE NAGESH BHEEMAPAKA

M.A.C.M.A.No.1974 OF 2008

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act by the appellants/claimants, aggrieved by the award and decree, dated 29.03.2004 passed in O.P.No.524 of 1997 on the file of Chairman, Motor Vehicles Accident Claims Tribunal-Cum-II Additional District Judge, Ranga Reddy District (for short "the Tribunal").

2. For the sake of convenience, the parties will be hereinafter referred to as arrayed before the Tribunal.

3. Brief facts of the case are that the on 11.04.1997 while Sri M. Mallikarjun @ Mallesh was proceeding on his scooter bearing registration No.AP-11-C-6776 from Bailramalaguda towards Hyderabad side on the left side of the road and when he reached near Karmanghat cross roads at about 0930 hours, the driver of the APSRTC bus bearing No.AP-9-Z-6977 who was proceeding in the same direction drove the said RTC bus in a rash and negligent manner and dashed against the Scooter from its behind, as a result of which the deceased fell down and the said RTC bus ran over him and deceased died

on the spot. The Police Saroornagar registered a case in Cr.No.208 of 1997 under Section 304-A of IPC against the driver. Thus, the mother of the deceased has claimed Rs.2,50,000/- towards compensation for the untimely death of the deceased.

4. Before the Tribunal, the respondent filed counter and denied the manner of accident narrated by the petitioner and stated that he is not liable to pay the compensation and prayed to dismiss the petition.

5. Basing on the above pleadings, the Tribunal framed the following issues:

- 1) Whether the accident occurred on 11.04.1997 at about 09:30 am due to rash and negligent driving of driver of APSRTC bus bearing No.AP-09-Z-6977?
- 2) Whether the petitioner is entitled to any compensation, if so, how much?
- 3) To what relief?

6. During trial, on behalf of the petitioners, PW-1 to PW-3 are examined and Ex.A-1 to Ex.A-6 are marked. On the other hand, on behalf of respondent, driver of the APSRTC bus was examined as RW-1 and no documents are marked.

7. After considering the oral and documentary evidence available on record, the Tribunal though held that the accident was not occurred on account of the rash and negligent driving of the driver of APSRTC bus but however awarded an amount of Rs.50,000/- with interest @ 9% per annum from 28.04.1997 to 19.03.2001 and again from 05.01.2004 to till the date of realization with costs. Aggrieved by the said award and decree, the claimant No.2 has filed the present appeal.

8. Heard both sides and perused the record.

9. The learned counsel for the appellant/claimant strongly contended that the learned Tribunal erred in finding that the driver of the offending vehicle was not rash and negligent and was carried away by the judgment in criminal proceedings wherein the driver was acquitted. He further contended that the learned trial judge ought to have believed the evidence of PW-3 an eye witness to the accident and grossly erred in rejecting his evidence on the faulty ground that he is not an list of witness in criminal proceedings.

10. A perusal of the impugned award would show that the Tribunal has framed Issue No.1 as to whether the accident has occurred due to rash and negligent act of driving of the driver of the bus and came to the conclusion that the accident had not occurred due to negligence of the driver of the bus. For an instance, even if we assume that the accident occurred on account of the rash and negligent driving of the driver of APSRTC as contended by the learned counsel for the appellant, no cogent evidence is adduced on the aspect of rash and negligence on the part of the driver of the offending bus. Therefore, the learned tribunal in the impugned judgment held that the accident occurred not due to the negligence of the APSRTC driver, but however the learned tribunal awarded an amount of Rs.50,000/- as compensation under "No fault liability", is very reasonable one.

11. In view of the foregoing discussion, I see no reason to interfere with the finding of the Tribunal and there are no grounds to interfere with the findings arrived at by the Tribunal and the appeal is liable to be dismissed.

12. Accordingly, the M.A.C.M.A. is dismissed, confirming the award and decree dated 29.03.2004 passed in O.P.No.524 of 1997 on the file of the on the file of Chairman, Motor Vehicles Accident Claims Tribunal-Cum-II Additional District Judge, Ranga Reddy District. There shall be no order as to costs.

13. Miscellaneous petitions, if any, pending shall stand closed.

SD/- T. VIJAY KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman Motor Accident Claim Tribunal-cum-II Additional District Judge, R.R.Dist at L.B. Nagar.
2. One CC to Sri. Y. ASHOK RAJ, Advocate [OPUC].
3. One CC to The Regional Manager, APSRTC, Imblibun Bus Station, Gowliguda, Hyderabad.
4. Two CD Copies

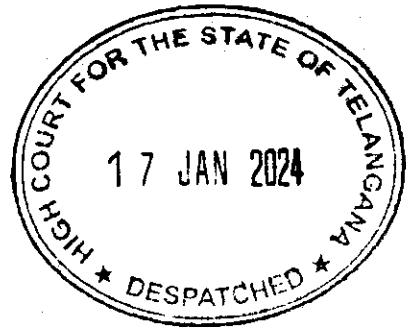


HIGH COURT

DATED:09/11/2023

JUDGMENT

MACMA.No.1974 of 2008



DISMISSING MACMA WITHOUT COSTS

(7) vw
3/1/24

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THE HONOURABLE SRI JUSTICE NAGESH BHEEMAPAKA

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Appeal Under Section 173 of Motor Vehicles Act against the order and decree in O.P.No.524 of 1997 dated 29.03.2004 on the file of the Court of the Chairman Motor Accident Claims Tribunal-cum-II Additional District Judge, R.R.Dist at L.B. Nagar.

ORDER: This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the case and upon hearing the arguments of Sri. Y. Ashok Raj, Advocate for the Appellants and of for the socce Respondent not appeared either in person or by Advocate.

This Court doth Order and Decree as follows:

1. That the Motor Accident Civil Miscellaneous Appeal be and hereby is dismissed confirming the award and decree dated 29.03.2004 passed in O.P.No.524 of 1997 on the file of the on the file of Chairman, Motor Vehicles Accident Claims Tribunal-cum-II Additional District Judge, Ranga Reddy District; and
2. That there shall be no order as to costs in this appeal;

**SD/- T. VIJAY KUMAR
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

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HIGH COURT

DATED:09/11/2023

DECREE

MACMA.No.1974 of 2008

DISMISSING MACMA WITHOUT COSTS

⑤ VLV
3/1/24