

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

TUESDAY, THE TWENTY SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 216 OF 2019

Appeal filed under Section 173 of Vehicle Act, Aggrieved by the Judgment and decree dated 29-09-2018 made in M.V.O.P.No.1011 of 2013 on the file of the Motor Accident Claims Tribunal –cum- Judge, Family Court -cum- Additional District Judge, at Nizamabad.

Between:

1. The Telangana State Road Transport Corporation, (Prior to bifurcation known as the Andhra Pradesh State, Road Transport Corporation), Represented by its Managing Director, Bus Bhavan, RTC Cross-Roads, Musheerabad, Hyderabad
2. The Telangana State Road Transport Corporation, (Prior to bifurcation known as the Andhra Pradesh State, Road Transport Corporation), Represented by its Depot Manager, Medchal Depot.

...Appellants/Respondents

AND

Kovuri Mahesh, S/o. Kovuri Sudarshan, aged about 36 years, Occ- Business, R/o. H.No. 19-16/1, Vivekananda Nagar, Dilsuknagar, Hyderabad, presently residing at Namdevada, Nizamabad.

...Respondent/Petitioner

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of execution of the judgment and decree of the Motor Accident Claims Tribunal-cum-(Judge,Family Court Additional District Judge) at Nizamabad,dt.29-09-2018,made in MVOP.No. 1011 of 2013, pending disposal of the above MACMA.No. 2018 and pass

Counsel for the Appellants: SRI. THOOM SRINIVAS (SC FOR TSRTC)

Counsel for the Respondent: Sri T. LAXMIKANTH SARMA

The Court delivered the following: JUDGMENT

THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU

MACMA NO.216 OF 2019

JUDGMENT:

The respondents in MVOP.No.1011 of 2013 on the file of Motor Accident Claims Tribunal (for short 'MACT') cum Additional District Judge, Nizamabad, being aggrieved by the order dated 29-09-2018 in the above referred MVOP, where under, the petition filed by the respondent/claimant for compensation was partly allowed granting an amount of Rs.11,29,900/- as compensation for the injuries caused to him in a road traffic accident and where under, liability was fixed on them. The TSRTC, which was shown as respondent, filed the present Civil Miscellaneous Appeal under Section 173 of Motor Vehicles Act (for short 'M.V. Act') with a prayer to set aside the impugned judgment on the following grounds.

2. The Tribunal committed an error by awarding an amount of Rs.11,29,900/- as compensation in spite of the petition filed by the petitioner for Rs.8,00,000/-. The tribunal committed an irregularity by holding that the accident

occurred due to the rash and negligent driving by the driver of RTC Bus. The tribunal committed an error by not considering the fact that the respondent did not add the owner and insurer of Santro Car in which the respondent was traveling as a party to the claim, thereby, the petition was bad for non-joinder of necessary parties. The tribunal failed to appreciate the fact that there was contributory negligence by the injured, but fixed the entire liability on the present appellant. The tribunal was wrong in awarding Rs.1,00,000/- towards pain and sufferance, Rs.1,00,000/- for two fractures and awarded a sum of Rs.30,000/- towards transportation and the amounts awarded under other heads are exorbitant.

3. As could be seen from the impugned order, the respondent/claimant has filed the said OP with a specific allegation that on 25-08-2011 when himself, his wife and daughter were proceeding from Nizambad to Hyderabad in a Car and when they reached Dandupally, the driver of RTC Bus bearing No.AP-10-Z-51 which was coming in the opposite direction, drove the Bus in high speed, in a rash and negligent manner and dashed the Car which was driven by

occurred due to his own rash and negligent driving and in view of the evidence of PW.1 as well as the Medical Officers, allowed the petition and awarded compensation as indicated above.

5. The present appeal has been filed by the RTC on the ground that the tribunal failed to appreciate the fact that there was rash and negligent driving by the respondent. Therefore, the tribunal ought to have dismissed the petition on the ground that the Insurance Company of the Car was not added as party to the petition. The appellants have also claimed that the amounts awarded by the tribunal are excessive and exorbitant. In fact, the tribunal while appreciating the evidence of RW.1 categorically held that his evidence cannot be accepted because he being driver of the Bus and facing criminal trial for causing the accident might not have deposed the real version. The evidence of PW.1 coupled with the above referred documents including copies of charge sheet and FIR proved the involvement of RW.1. With regard to quantum of compensation, the learned Chairman, MACT has analyzed the evidence of PW.1 as well as the

the respondent/claimant and caused him multiple grievous injuries. The respondent has filed claim petition against the RTC and sought for a sum of Rs.8,00,000/- as compensation. The appellants have disputed the claim raising number of grounds including ground of contributory negligence, failure of the respondent to add the insurer of the Car in which the respondent was traveling. The tribunal has framed the following three issues:

1. Whether the accident has taken place due to rash and negligent driving of the Bus bearing No.AP-10-Z-51 by its driver?
2. Whether the petitioner is entitled for compensation on account of fracture and injuries? If so, what amount and against whom?
3. To what relief?
4. The respondent/claimant himself was examined as

PW.1 and he has examined the Doctors, who have provided treatment to him as PWs.2 to 4 and marked Exs.A1 to A14. The driver of the above referred Bus was examined as RW.1. However, the tribunal did not accept the evidence of RW.1 and having perused the copies of FIR, charge sheet laid against the driver, came to the conclusion that the accident

evidence of three Medical Officers, who were examined as PWs.2 to 4.

6. According to the evidence placed before the Court and exhibits marked as Exs.A3 to A14, it shows that the respondent has undergone two surgeries for the fractures caused to him and was treated as in-patient in two different spells. The tribunal has considered Ex.A8 i.e., bunch of 33 medical bills and came to the conclusion that he has spent an amount of Rs.4,18,286/- towards medical expenditure. PW.2, who is a Consultant Orthopedic Surgeon of Sunshine Hospital from whom the respondent obtained follow up treatment for two years deposed before the Court that in view of the said accident, there is a possibility of PW.1 limping and he require support for walking and he may develop early Arthritis of his knee due to the severity of the injury. As per Ex.P2 - Disability certificate issued by Medical Board, Osmania General Hospital, Hyderabad, the petitioner suffered 50% disability and there is deformity of right leg. Therefore, the Court below has awarded appropriate amounts of compensation which includes Rs.4,18,286/- as medical

expenditure and Rs.3,45,600/- towards partial permanent disability. The other amounts such as compensation fractures, pain and sufferance cannot be termed as exorbitant amount. In view of the accident, the respondent suffered a major injury which resulted limping of his right leg. Therefore, the oral evidence of PWs.1 to 4 coupled with Exs.A1 to A14 clearly shows that the accident caused physical disability and deformity in the right leg of PW.1. Therefore, the Court below awarded appropriate sum of compensation and there is no necessity to interfere with the said finding.

7. In the result, the appeal is dismissed.

Consequently, Miscellaneous applications if any, are closed. No costs.

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Sd/- T. JAYASREE
ASSISTANT REGISTRAR

SECTION OFFICER

To,

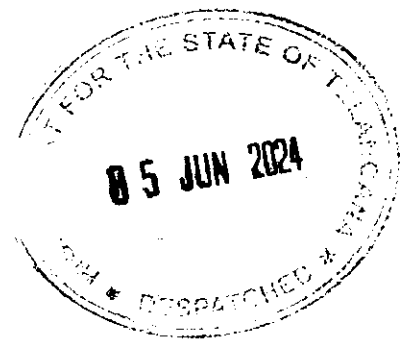
1. The Motor Accident Claims Tribunal -cum- Judge, Family Court -cum- Additional District Judge, at Nizamabad (with records, if any)
2. One CC to Sri THOOM SRINIVAS (SC FOR TSRTC) Advocate [OPUC]
3. One CC to Sri T. LAXMIKANTH SARMA, Advocate [OPUC]
4. Two CD Copies

PSR/kam

HIGH COURT
DATED:27/02/2024

JUDGMENT + DECREE

MACMA.No.216 of 2019



DISMISSING THE MACMA
WITHOUT COSTS

⑥ VW
4/5/24

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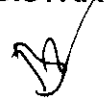
ORDER: This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the case and upon hearing the arguments of Sri THOOM SRINIVAS (SC FOR TSRTC), Advocate for the appellant and Sri T. LAXMIKANTH SARMA, Advocate for the Respondent.

This Court doth Order and Decree as follows:

That the Motor Accidents Civil Miscellaneous Appeal be and hereby is dismissed;

//TRUE COPY//

**Sd/- T. JAYASREE
ASSISTANT REGISTRAR**



SECTION OFFICER

To,

1. The Motor Accident Claims Tribunal -cum- Judge, Family Court -cum- Additional District Judge, at Nizamabad (with records, if any)

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HIGH COURT
DATED:27/02/2024

DECREE

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DISMISSING THE MACMA
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