

Apsrtc Vs. K. Kumar Reddy

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Court : Andhra Pradesh

Decided On : Jan-07-2003

Reported in : 2003(2)ALD788; 2003(2)ALT123

Judge : Dubagunta Subrahmanyam, J.

Acts : [Motor Vehicles Act, 1988](#) - Sections 168

Appeal No. : CMA No. 127 of 2000

Appellant : Apsrtc

Respondent : K. Kumar Reddy

Advocate for Def. : K. Rathanga Pani Reddy, Adv.

Advocate for Pet/Ap. : A.V. Sivaiah and ;P. Vinayak, SC

Disposition : Petition dismissed

Judgement :

Dubagunta Subrahmanyam, J.

1. The APSRTC filed this appeal against the Award dated 5-11-1999 passed in M.V. O.P. No. 377 of 1997 on the file of the Motor Accidents Claims Tribunal-cum-I Additional District Judge, Kurnool.

2. There was a collision between two vehicles, namely a car bearing registration No. AP-21C-4334 belonging to the claimant- respondent and APSRTC bus bearing No. AP-9Z-2293, on 8-2-1997 on Kurnool-Hyderabad High way. The car sustained damages as a result of the accident. The respondent-claimant filed the claim application seeking compensation of Rs. 2,35,100-00 on the ground that the accident took place due to the rash and negligent driving of RTC Bus Driver. APSRTC disputed its liability. It also disputed that the accident took place due to the rash and negligent driving by its driver. The Claims Tribunal framed appropriate issues. The claimant examined three witnesses as PWs.1 to 3 in support of his case and marked Exs.A.1 to A.27. The Tribunal granted total compensation of Rs. 1,40,000-00 with proportionate costs and interest payable by the appellant to the respondent-claimant. The said Award dated 5-11-1999, is questioned by APSRTC in the present appeal.

3. It is an unfortunate case. The learned I Additional District Judge without any discussion, whatsoever, recorded a finding that the accident took place due to rash and negligent driving of RTC Bus Driver. His entire discussion is in para 8 of his judgment. Para 8 of his judgment reads as follows:

'No evidence is adduced on behalf of the respondent. Ex.A.1 is copy of FIR. Ex.A.3 is copy of charge-sheet. They show that the accident occurred due to negligence of the driver of the RTC bus.

Exs.A4 to A12 are photos showing the damaged car. According to PW.3 he valued the accident car at Rs. 1,40,000/- in its Pre-accident condition. Therefore, the value of the car shall not be more than Rs. 1,40,000/-and so compensation for damages also shall not be more than Rs. 1,40,000/-.

It is not the case of the petitioner that he lost income from the accident-car due to the accident. It is not the case of the petitioner that he was getting income by giving the car for hire. I therefore hold that the accident occurred due to negligence of the driver of the APSRTC bus and the respondent is liable to pay compensation for damage done to the car.'

The above discussion shows that according to the learned District Judge, FIR copy Ex.A.1, Charge-sheet Ex.A.3 proved that the accident occurred due to the negligence of the driver of the RTC bus. He did not even narrate the contents of Exs.A.1 and A.3 in the course of his judgment. The claimant adduced oral evidence regarding the manner in which the accident took place. The claimant-PW.1 as well as PW.2 were travelling in the vehicle at the time of accident. The learned 1 Additional District Judge ought to have discussed their evidence and if he had found that their evidence is trustworthy and acceptable, he should have recorded the finding that the accident took place due to the negligence on the part of RTC driver. As already pointed out, he did not discuss any evidence to give this finding. A Senior District Judge is not supposed to pass such claim orders, without any discussion, fastening the liability on the respondents in the claim applications. He is expected to apply his mind, discuss the evidence on record and then record findings of fact. The learned Advocate for the respondent contends that as RTC authorities did not adduce any evidence, an adverse inference can be drawn against them. It is not a question of drawing an adverse inference. The burden of proof is on the claimant to show that the accident took place due to the rash and negligent driving of the vehicle belonging to the RTC. One of the circumstances, that can be taken into consideration is, the absence of any evidence on behalf of the RTC. Just because RTC authorities did not adduce any evidence, the Court without any discussion is not supposed to jump to the conclusion that the accident took place due to the rash and negligent driving of the RTC driver. It therefore, becomes necessary for this Court to set aside the Award passed by the learned Tribunal and remit the entire O.P. to the Tribunal for fresh disposal in accordance with law. The Tribunal is directed to consider afresh the entire evidence regarding the rash and negligent driving of RTC driver as well as the quantum of compensation to which the respondent-claimant is liable. The casual manner in which the learned 1 Additional District Judge passed the impugned order is shocking and deprecated.

4. In the result, the appeal is allowed. The award dated 5-11-1999 is set aside. MVOP No. 377 of 1997 is remitted to the 1 Additional District Judge, Kurnool for fresh disposal in accordance with law, in the light of the observations made by this Court, in the course of this order. The Tribunal is directed to dispose of the O.P.

within a period of three months from the date of receipt of records from this Court.
No costs.

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