

Apsrtc Vs. S. Mahaboob Basha

Apsrtc Vs. S. Mahaboob Basha

SooperKanoon Citation : sooperkanoon.com/446451

Court : Andhra Pradesh

Decided On : Jul-13-2006

Reported in : I(2007)ACC278

Judge : L. Narasimha Reddy, J.

Appellant : Apsrtc

Respondent : S. Mahaboob Basha

Judgement :

L. Narasimha Reddy, J.

1. The respondent filed O.P. No. 101 of 2001 before the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Kadapa, against the appellant herein, under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), claiming a sum of Rs. 1,50,000 as compensation.

2. It was pleaded that the respondent is the owner of the lorry bearing registration No. ADC 754 and on 6.10.1995, it was proceeding from Naidupeta to Kadapa, loaded with paddy bags. A bus bearing No. AP9-Z-6377, belonging to the appellant, is said to have come in a rash and negligent manner and dashed against the lorry. It was alleged that on account of the accident, extensive damage was caused to the lorry, and that the respondent had to incur a sum of Rs. 1,50,000 towards purchase of material and service charges.

3. The appellant filed a counter-affidavit, opposing the claim of the respondent. It denied the liability. It was alleged that the claim was raised nearly six years, after the alleged accident. After framing the relevant issues, the Tribunal awarded a sum of Rs. 1,27,000 as compensation together with interest at the rate of 9% per annum, through its order, dated 20.9.2002.

4. The learned Counsel for the appellant submits that the claim itself was not maintainable, since it was presented six years after the alleged accident. It is also his case that no independent witness was examined to prove that the accident occurred or that it was on account of the rash and negligent driving of the driver of the bus. He further contends that no witness was examined by the respondent, as regards the repairs said to have been carried out to the lorry.

5. The learned Counsel for the respondent, on the other hand, submits that driver of the lorry was examined as P. W. 2 and that his evidence was not contradicted by the appellant. He also submits that the documentary evidence, in the form of Exs. A4 to A.7, is sufficient, to prove the extent of damage caused to the lorry of the respondent.

6. The respondent claimed compensation for the damage, said to have been caused to his lorry. It is true that the Act does not prescribe any limitation for presentation of the claims. Though not as a requirement under any particular provision, the respondent is under obligation to state the reasons for the delayed presentation of the claim, by about six years. The reason is that the evidence and the circumstances that had any bearing on the accident, cannot be expected to remain the same, for such a long period. Even if such a delay does not have any bearing on the maintainability of the O.P., as such, the corresponding burden or obligation on the part of the respondent to prove the facts, as regard the occurrence of accident and the liability for the same, increases. Further, the burden to prove the occurrence of accident and the responsibility, if any, on the part of the appellant herein, squarely rests with the respondent herein.

7. The record discloses that the respondent did not discharge his obligation to the extent, it is required under law. P.W. 1 is the owner of the lorry, who, admittedly, did not witness the accident. P.W. 2 is said to be the driver of the vehicle. His

version was not at all corroborated by any other witness. A self serving statement of that nature cannot be the sole basis for fixing the liability, for the accident, on the part of the driver of the bus, belonging to the appellant.

8. Another aspect of the matter is that the appellant did not state as to whether his vehicle was insured. If at all there existed an insurance coverage, the insurer would have also been impleaded as a party.

9. As regards the extent of damage caused to the vehicle, the respondent, no doubt, filed certain bills. However, unless they are spoken to by the person, who issued them, or anyone concerning them, the burden in relation to the same, cannot be said to have been discharged.

10. For the foregoing reasons, the civil miscellaneous appeal is allowed and the order under revision is set aside. The matter is remanded to the Tribunal for fresh consideration. It shall be open to both the parties to lead such evidence and to put forward such contentions, as they intend to. There shall be no order as to costs.