

(2004) 07 AP CK 0011
In the Andhra Pradesh High Court
Case No : CMA No. 2764 of 2000

APSRTC

APPELLANT

Vs

Chamarthi Siddi Raju

RESPONDENT

Date of Decision : 16-07-2004

Acts Referred:

Motor Vehicles Act, 1988 — Section 168
Penal Code, 1860 (IPC) — Section 337, 338

Citation : (2004) 5 ALD 595

Hon'ble Judges : C.Y. Somayajulu, J

Bench : Single Bench

Advocate : P. Vinayaka Swamy, SC, for the Appellant; C.K. Venkatrami Reddi, for the Respondent

Judgement

C.Y. Somayajulu, J.—Respondent who suffered injuries in an accident caused due to the rash and negligent driving of the driver of the bus belonging to the appellant, filed a claim petition seeking compensation of Rs. 1,00,000/- from the appellant and examined himself as P.W.1 and another witness as P.W.2 and marked Exs.A-1 to A-5 on his behalf. Appellant, who contested the claim, examined one witness as R.W.1 but did not adduce any documentary evidence. The Tribunal having held that the accident occurred due to the rash and negligent driving of the driver of the bus of the appellant, awarded Rs. 67,500/- as compensation to the respondent. Aggrieved thereby, this appeal is preferred by the owner of the bus involved in the accident.

2. The points that arise for consideration are:

(1) Whether the accident occurred due to the rash and negligent driving of the driver of the bus belonging to the appellant?

(2) To what compensation, if any, is the respondent entitled to?

Point No. 1:

3. The case of the respondent is that when he was travelling as a passenger in a bus belonging to the appellant, there was a collision between that bus and another bus belonging to the appellant that was coming in its opposite direction, resulting in injuries to him. Since both the buses involved in the accident belong to the appellant, and since the respondent who was travelling as a passenger in one of the buses involved in the accident cannot be said to be a contributor to the accident, the finding of the Court below that the accident occurred due to the rash and negligent driving of the drivers of the buses belonging to the appellant needs no interference. Therefore, I hold that the accident, resulting in injuries to the respondent, occurred due to the rash and negligent driving of the driver of the bus belonging to the appellant.

Point No. 2:

4. The evidence of the respondent as PW.1 is that he spent Rs. 60,000/- for his treatment for purchase of medicines and that he used to do agriculture and seasonal business and used to earn about Rs. 5,000/- to Rs. 6,000/- per month and because of the injuries suffered by him in the accident he is unable to do agriculture or business and so he is entitled to Rs. 1,00,000/- as compensation. During cross-examination he denied the suggestion that he suffered only simple injuries and did not suffer any disability as a result of the accident. He admitted that he did not file any document to show that he was earning Rs. 5,000/- to Rs. 6,000/- per month. The evidence of P.W.2 shows that he is acquainted with the respondent from the age of his discretion.

5. Ex.A-1, FIR issued in connection with the accident, shows that it was registered u/s 337 I.P.C. Ex.A-2 copy of the charge-sheet filed against the driver of the bus belonging to the appellant, is for offences under Sections 337 and 338 I.P.C. as per which respondent is L.W.6. The averments therein i.e., Ex.A-2 show that L.W.2 received grievous injuries and all the other injured persons cited as L. Ws. suffered simple injuries. Since L.W.2 cited in Ex.A-2 charge-sheet is not the respondent, it is clear that respondent received only simple injuries in the accident. Ex.A-3 wound certificate of respondent also shows the respondent had only simple injuries. As rightly contended by the learned Counsel for the appellant, simple injuries cannot cause permanent disability. So the contention of the respondent that he suffered grievous injuries in the accident and consequently a permanent disability cannot be believed or accepted. Therefore, the Tribunal was in error in awarding Rs. 67,500/- as compensation to the respondent for the permanent disability allegedly suffered by him.

6. Assuming that the bunch of bills produced by the respondent are true, respondent can be awarded Rs. 11,000/- towards purchase of medicines etc., and Rs. 2,000/- towards pain and suffering. If the respondent underwent treatment for 20 days or above, for the injuries suffered by him in the accident, those injuries would be treated as grievous injuries in view of Section 320 I.P.C. Since petitioner had only simple injuries, it is clear that he underwent treatment for less than 20 days.

7. Though, there is no reliable evidence to show that the petitioner was earning Rs. 5,000/- to Rs. 6,000/- per month from business and other sources, he can be awarded Rs. 1,000/- towards loss of earning during the period of treatment.

8. Thus appellant is entitled to Rs. 11,000/-+ Rs. 2,000/-+ Rs. 1,000/- = Rs. 14,000/- as compensation for the injuries suffered by him in the accident. The point is answered accordingly.

9. In the result, the appeal is allowed in part with costs and the award passed by the Tribunal is modified. An award is passed for Rs. 14,000/- (Rupees fourteen thousand only) in favour of the respondent against the appellant with interest at 9% per annum from the date of petition i.e., 4-11-1999 till the date of deposit into the Tribunal. The rest of the claim of the respondent is dismissed without costs.