
(1981) 08 KAR CK 0019
In the Karnataka High Court
Case No : First Appeal No. 9 of 1977

Mysore (Now Karnataka) State Road Transport Corporation	APPELLANT
Vs	
Somashankar N.R.	RESPONDENT

Date of Decision : 10-08-1981

Acts Referred:

Citation : (1982) ACJ 39 : AIR 1982 Kar 226

Hon'ble Judges : P.A. Kulkarni, J;K. Jagannatha Shetty, J

Bench : Division Bench

Advocate : E. Masalamani, for the Appellant; Gurushettappa, for C.S.
anthamallappa, for the Respondent

Judgement

Kulkarni, J.—This appeal is directed against the judgment and decree dated Sept., 1, 1976 passed by the Principal Civil Judge, Bangalore District, Bangalore, in O.S. 74/1973 decreeing the suit for Rs. 27,496-50 with 6 percent interest from the date of decree onwards.

2. On June 10, 1972, there was an accident between the vehicle of the appellant-Corporation and the Tourist bus belonging to the respondent. As a result of the accident, the Tourist bus suffered damage and some passengers were also injured with fatal accident to one or two. The injured and the legal representatives of the deceased made claim petitions before the Accident Claims Tribunal. The Tribunal held therein that the accident was caused due to the rash and negligent driving of the vehicle of the appellant.

3. The respondent claiming compensation for the damage caused to the vehicle, filed a suit against the appellant for recovery of the amount spent towards the repairs. The suit was decreed in part and the Corporation has challenged the validity of that decree in this appeal.

4. Mr. Masalamani, learned counsel for the appellant, firstly contended that out of the damages awarded 20 per cent ought to have been deducted against depreciation as the Tourist bus was two years old at the time of the accident, We

do not think that this contention could be accepted. The question of depreciation would arise only when the bus becomes a scrap or total loss for which the damages have to be determined. In the instant case, the damages awarded were to meet the actual expenses incurred for the repairs and replacement. Therefore, the question of depreciation does not arise.

5. Now comes the question of negligence, Mr. Masalamani urged that the finding of the lower court that the driver of the Corporation was negligent is not correct and is contrary to the evidence. In our opinion, it may not be necessary to examine the evidence on this question. It may be recalled that there were parallel proceedings initiated by the injured persons and also by the legal representatives of the person who died in the same accident. The claim of those persons was adjudicated by the Claims Tribunal in M.V-C. Nos. 363 and 348/1972 and connected cases. Therein, the Tribunal held that the accident was due to the negligence of the driver of the Corporation bus and awarded compensation to the claimants. Against that award, the Corporation preferred appeals M.F.A. 508, 509 and 534 of 1975 in this Court.

6. This Court disposed - of those appeals on Sept. 4, 1978 affirming the finding recorded by the Tribunal on the question of negligence. Since the cause of action for both the proceedings being the same, the finding recorded on the question of negligence in the previous award, which has become final, must be held to be binding on the parties in this appeal on the principle of res Judicata. The Corporation which was a party to that award cannot, therefore, be permitted to reopen that finding in this appeal.

7. In the result, the appeal fails and is dismissed, but in the circumstances of the case, we make no order as to costs.

8. Appeal dismissed.