

(2014) 10 KAR CK 0009

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 30987 of 2010 [MV]

The Divisional Controller NEKRTC

APPELLANT

Vs

Rukmuddin

RESPONDENT

Date of Decision : 10-10-2014

Acts Referred:

Citation : (2014) 10 KAR CK 0009

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : Shailaja C.D. Adv, Advocate for the Appellant

Judgement

A.S. Pachhapure, J.—The appellant has challenged the finding on negligence and the consequent grant of compensation to the respondent for the injuries sustained in the motor vehicle accident.

2. The facts reveal that on 12.09.2006 at about 12.30 p.m., the respondent and another were proceeding on the motorcycle bearing reg. No. KA-38E-2843. At that time, the KSRTC bus bearing reg. No. KA-38/F-226 came from the opposite direction and hit the motorcycle. Thereby, respondent sustained grievous injuries in the said accident. A claim petition was filed for compensation on different grounds.

The appellant appeared and filed its objections denying the averments made and also the rash and negligent driving of the bus by its driver.

The claimant was examined as P.W.1 and the doctor-P.W.2. The documents Exs. P1 to 31 were marked in their evidence. The driver of the bus was examined as R.W.1 and the documents Exs. D1 and 2 were marked. The Tribunal has held that it is the bus driver, who was negligent and was responsible for the accident and granted a sum of Rs. 99,000-00 as compensation with interest. Aggrieved by the findings on the negligence, the present appeal is filed.

3. I have heard learned counsel for the appellant. The respondent though served

is absent.

4. The point that arises for my consideration is;

Whether the findings on the negligence holding that the bus driver is responsible for the accident requires any interference?

5. Learned counsel for the appellant submits that one Swamidas was an eye-witness to the accident, who was examined in the criminal case and he has deposed in the case that the bus did not hit the motorcycle and that there was no negligence on the part of the bus driver. The said deposition of the Swamidas is produced at Ex. D2. Learned counsel referring to this deposition of Swamidas claims that the Tribunal has not considered this aspect.

6. The said Swamidas who deposed in the criminal case is not examined before the Tribunal either by the claimant or by the KSRTC. The deposition of the aforesaid witness in the criminal case cannot be accepted as evidence unless the claimant had an opportunity to cross-examine the said witness. Therefore, the contents of Ex. D2 cannot be accepted to prove that there was no negligence on the part of the KSRTC bus driver.

7. P.W.1 is the eye-witness. He has stated in his evidence that the accident was due to the negligent driving of the bus by its driver. Complaint has been filed against the bus driver and also the charge-sheet. The contents of the aforesaid documents support the version of the claimant. The Tribunal has taken into consideration the evidence of P.W.1 and other documents like the FIR-Ex. P1, copy of the spot mahazar-Ex. P2, the wound certificate-Ex. P3, the charge sheet-Ex. p3 and the oral evidence. In view of the fact that Ex. D2 has no evidentiary value in the proceedings before the Claims Tribunal, in the absence of the examination of the said witness the Tribunal was justified in holding the bus driver negligent and granting the compensation. Therefore, the aforesaid point is answered in negative.

Consequently, the appeal fails and it is accordingly dismissed. The amount in deposit be transmitted to the Tribunal.