

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A. No.1059 of 2005

JUDGMENT:

Dissatisfied with the amount of Rs.34,780/- granted as compensation by the order dated 02.09.2004 in M.V.O.P.No.508 of 2000 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Guntur (for short, 'the Tribunal') as against the claim of Rs.1,20,000/- laid under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act'), for the injuries sustained by the petitioner in a road accident, the instant appeal is preferred seeking enhancement of compensation.

2. The appellant herein is the petitioner, while the respondent, who is the Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation'), was the respondent in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts in brief are that on 10.04.2000 at about 7-00 p.m., while the petitioner was turning near Bellamkonda Canal on Piduguralla to Sattenapalli road, an RTC bus bearing registration No.AP 10Z 2675 driven in a rash and negligent manner and at high speed dashed him, due to which, he sustained multiple fractures to the right hand, left ribs and left kneecap and he was immediately shifted to Government Hospital, Guntur, and treated there as an inpatient. He claims that he spent Rs.5,000/- towards medicines. Even the concerned Station House Officer registered a crime against the driver of the RTC bus. Therefore, he sought compensation from the respondent-Corporation.

5. The Corporation filed its written statement opposing the claim raising various pleas.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, the petitioner examined himself as P.W.1 besides examining Dr. V.V.Narayana Rao as P.W.2 and marked Exs.A.1 to A.7 and Ex.X.1 case sheet by summoning the same marked it through P.W.2;

whereas, on behalf of the respondent-Corporation, driver of the RTC bus was examined as R.W.1 and no documents were marked.

7. The Tribunal, on appraisal of evidence, both, oral and documentary, let in by the parties, held issue No.1 in favour of the petitioner; and on issue No.2, having found that the petitioner sustained fracture of left clavicle, fracture of right humerus and fracture of ribs 3rd, 4th, 5th and 6th left side, and considering the evidence of P.W.2 that the petitioner has undergone surgical interventions by admitting as an inpatient for two spells from 07.04.2000 to 19.04.2000 relating to the first spell and from 17.07.2000 to 08.08.2000 for the second spell, granted Rs.6,000/- towards medical expenses, Rs.4,500/- towards loss of temporary earnings @Rs.900/- for five months, basing on the assertion that he was earning Rs.25/- to Rs.30/- per day. Considering the disability at 10%, the Tribunal worked out the loss of earning capacity at Rs.17,280/-. Further, the Tribunal granted Rs.7,000/- towards non-pecuniary damages for pain and suffering, etc., and, thus, granted a total sum of Rs.34,780/- with interest at 9% per annum.

8. It is the aforementioned order which is under challenge in the instant appeal, filed under Section 173 of the Act, contending in the grounds of appeal that the Tribunal ought to have taken the wage of the petitioner basing on the minimum wages applicable to relevant time to the agricultural labourers, and the Tribunal ought to have granted Rs.5,000/- each to the fracture injuries, and the amount granted by the Tribunal was very meager, and, therefore, sought to grant balance amount.

9. Heard Sri N.Subba Rao, learned counsel for the appellant-claimant, and Sri P.Durga Prasad, learned Standing Counsel for the respondent-Corporation.

10. The short question that requires consideration in the instant appeal is, whether the amount awarded by the Tribunal is not just and adequate and requires to be enhanced?

11. Perused the order under challenge and the evidence on record adduced by the parties, both, oral and documentary. Concerning the determination of compensation by the Tribunal, since the scope is very limited in the instant appeal for enhancement, the amount of Rs.6,000/- granted towards medical expenses by the Tribunal is maintained, as Ex.A.7, which consists of ten medical bills, would reflect the value of the medicines at Rs.4,510-50 ps. Even the daily wage of the petitioner

taken by the Tribunal also cannot be disturbed in view of his own assertion that he was earning Rs.25/- to Rs.30/- per day as a coolie. Therefore, the amount of Rs.900/- taken by the Tribunal as monthly earnings is also maintained. However, the Tribunal applied multiplier '16' as against '17' provided in the II Schedule to Section 163-A of the Act, as he falls under the age group of 30 to 35 years, and, therefore, it works out to Rs.18,360/- (Rs.1,080/- x '17') and the same is granted as against Rs.17,280/- granted by the Tribunal. Towards loss of earnings, the Tribunal granted Rs.4,500/-. However, when kept in view, the nature of injuries sustained by the petitioner as mentioned in the above, atleast for one year, the petitioner would not have been able to gain normalcy, and, therefore, for 12 months, @Rs.900/-, a sum of Rs.10,800/- is granted as against Rs.4,500/- granted by the Tribunal. Towards non-pecuniary damages, the Tribunal granted Rs.7,000/-. As seen from the nature of injuries, i.e., three fractures, third being fracture of ribs 3rd, 4th, 5th and 6th, and, hence, @Rs.5,000/- is awarded for each fracture. Therefore, a total sum of Rs.30,000/- is granted as against Rs.7,000/- granted by the Tribunal under the said head. The petitioner is also entitled to Rs.2,000/- towards extra nourishment and Rs.5,000/- towards transport and attendant charges.

12. Thus, the petitioner is entitled to a total sum of Rs.72,160/- (Rupees seventy two thousand one hundred and sixty) as against Rs.34,780/- granted by the Tribunal, towards compensation and the same is accordingly granted, with interest at 7.5% per annum on the entire amount from the date of petition till realisation, as against 9% granted by the Tribunal, as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**.

13. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation and reducing the rate of interest, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

14. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

A. SHANKAR NARAYANA, J

20th March, 2015

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