

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A. No.743 of 2005

JUDGMENT:

Dissatisfied with the amount of Rs.82,000/- granted as compensation by the order dated 25.01.2005 in O.P.No.821 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge at Warangal (for short, 'the Tribunal') as against the claim for Rs.2,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the instant appeal is preferred.

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

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

4. The facts in brief are that on 03.04.2002, while the petitioner along with her family members was returning to Nagaram, having attended Kotancha Jathara, in an auto bearing registration No.AP 11T 9510 belonging to one Pasula Mallaiah and when it reached Gangarai Cheruvu, after crossing Regonca village on Regonda Parkal Road at about 7-45 p.m., an RTC bus bearing registration No.AP 9Z 5283 belonging to Parkal Depot driven in a rash and negligent manner at high speed and hit the auto, due to which, the petitioner and others sustained injuries. According to the petitioner, she was shifted to Civil Hospital, Parkal, from there, she got admitted in MGM Hospital, Warangal, and then taken to Rohini Hospital, Hanamkonda and taken treatment till 30.04.2002. The petitioner claimed that she suffered permanent disability, and, therefore, sought Rs.2,00,000/- as compensation.

5. Before the Tribunal, the respondent opposed the claim, disputing 100% disability stated by the petitioner, while denying the nature of injuries sustained by the petitioner.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry before the Tribunal, the petitioner examined herself as P.W.1 besides examining Dr.P.Narsimhulu as P.W.2 and marked Exs.A.1 to A.5 and Ex.X.1 case sheet summoning the same and marking it through P.W.2; whereas on behalf of the respondent-Corporation, no witnesses were examined 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 affirmative. On issue No.2, the Tribunal basing on the evidence of P.W.2 that though P.W.1 was completely cured by the time she was discharged from Rohini Hospital, Hanamkonda, still, suffering from weakness on the upper and lower limbs with power 4/5, granted a sum of Rs.22,000/- towards medicines, extra nourishment and transport charges, Rs.10,000/- towards pain and suffering, Rs.50,000/- towards continuous sufferance observing that she has been made to endure probably throughout her life with the said inconvenience, and, thus, totally a sum of Rs.82,000/- was granted by the Tribunal with interest at 9% per annum.

8. It is that order which is challenged by preferring the instant appeal contending in the grounds of appeal that the Tribunal ought to have taken the disability at 100% as the petitioner is unable to move or attend to her avocation and sought to enhance the amount of compensation.

9. Heard Sri B.Narayana Reddy, learned counsel for the appellant, and Sri B.Mayura Reddy, learned Standing Counsel for the

respondent-Corporation.

10. So far as the quantum of compensation is concerned, the injuries have been described as found in Ex.A.2 in paragraph-11 of the award, which needs no mention. But suffice it to state that the evidence of P.W.2 clearly shows that despite the fact by the time she was discharged from Rohini Hospital, Hanamkonda, still, she was suffering from upper and lower limbs with power 4/5. Thus, the petitioner has been suffering inconvenience with 20% so far as all the four limbs are concerned. Therefore, keeping in view, the fact that the petitioner was 28 years old, though married, she has been suffering from weakness in all the four limbs, the amount of Rs.50,000/- granted by the Tribunal appears to be on lower side. Therefore, it is enhanced to Rs.1,00,000/-. So far as the other amounts granted by the Tribunal for Rs.22,000/- towards medical expenses, extra nourishment and transport charges and Rs.10,000/- towards pain and suffering are concerned, the same are maintained.

11. Thus, the petitioner is totally entitled to Rs.1,32,000/- (Rupees one lakh and thirty two thousand) as against Rs.82,000/- granted by the Tribunal, towards compensation and the same is accordingly granted, with interest at 7.5% per annum from the date of petition till realisation, as against 9% granted by the Tribunal, on the entire compensation, as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1].

12. Accordingly, the instant appeal is allowed in part modifying the impugned award passed by the Tribunal, by enhancing the compensation and reducing the rate of interest, as indicated above. There shall be no order as to costs.

13. As a sequel thereto, miscellaneous applications, if any, pending

in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

11th February, 2015

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