

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

M.A.C.M.A. No.1071 OF 2009

JUDGMENT:

This appeal is preferred by the appellant/petitioner challenging the judgment and award, dated 22.10.2008 passed in O.P.No.827 of 2007 on the file of the Motor Accidents Claims Tribunal-cum-XIII Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad (for short, 'the Tribunal').

2. For the sake of convenience, the parties are hereinafter referred to as they are arrayed in the O.P. before the Tribunal.

3. The facts leading to filing of the present appeal are, briefly, as follows:

On 18.03.2007, the petitioner was proceeding to Red Tank from his residence on a scooter bearing No.AP 11 H 7152 and when he reached near Red Tank, Vanasthalipuram, the driver of the A.P.S.R.T.C. Bus bearing No.AP 10 Z 6006 had driven the same in a rash and negligent manner and hit the scooter of the petitioner from behind. The accident occurred due to the rash and negligent driving of the driver of the bus, against whom the Station House Officer, Vanasthalipuram Police Station registered a case in Crime No.170 of 2007 for the offence punishable under Section 337 I.P.C. Due to accident, the petitioner sustained fractures and took treatment in different hospitals and spent huge amount towards medicines and treatment. By the time of accident, the petitioner was studying B.Com second year. Therefore, respondent Nos.1 and 2 are jointly and severally liable to pay compensation of Rs.5,00,000/- to the petitioner.

4. The respondents filed counter denying all the averments made in the petition *inter alia* contending that the accident occurred due to the negligence of the petitioner and there was no negligence on the part of the driver of the bus. The petitioner sustained only simple injuries and the amount of compensation claimed by the petitioner under various heads is highly excessive and exorbitant. Hence, the petition may be dismissed.

5. Basing on the above pleadings, the Tribunal framed the following issues:

1. Whether the accident resulting in injuries to the petitioner occurred owing to the rash and negligent driving of the driver of bus

bearing No.AP 10 Z 6006?

2. Whether the petitioner is entitled for compensation, if so to what amount and from whom?
3. To what relief?

6. During the course of trial, on behalf of the petitioner, PWs.1 to 5 were examined and Exs.A.1 to A.10 were marked. On behalf of the respondents, no oral or documentary evidence was adduced.

7. Basing on the oral, documentary evidence and other material available on record, the Tribunal arrived at a conclusion that the accident occurred due to the rash and negligent driving of the driver of the bus which resulted in injuries to the petitioner and allowed the petition in part by awarding compensation of Rs.1,33,234/- with interest at the rate of 7% per annum from the date of petition till the date of deposit.

8. Feeling aggrieved by the judgment and award of the Tribunal, the petitioner preferred the present appeal.

9. Heard Sri C.Vikram Chandra, the learned counsel for the petitioner (appellant) and Sri N.Vasudeva Reddy, the learned Standing Counsel for respondent No.1 – Corporation.

10. Learned counsel for the petitioner submitted that the Tribunal has not properly considered the recitals of Exs.A.3 to A.6 and awarded meagre amount of compensation. He further submitted that the Tribunal failed to consider that the petitioner sustained three fractures and two simple injuries.

11. Per contra, the learned Standing Counsel for respondent No.1 submitted that the Tribunal awarded just and reasonable compensation to the petitioner.

12. Now the point that arises for consideration in this appeal is:

Whether the Tribunal has awarded just and reasonable compensation to the petitioner or not?

Point:

13. As per the finding of the Tribunal on issue No.1, the accident occurred due to the rash and negligent driving of the driver of the bus. The finding recorded by the Tribunal on issue No.1 became final in view of non-filing of appeal or cross objections by the respondents. The Tribunal has assigned cogent and valid reasons to its finding on issue No.1. Having regard to the facts and circumstances of the case, I am of the considered view that the accident occurred due to the rash and negligent driving of the driver of the bus which resulted in injuries to the petitioner.

14. The oral testimony of PW.2 coupled with Exs.A.3 to A.6 clearly reveals that the petitioner sustained fracture to right clavicle. By examining PWs.2 and 3 and marking Exs.A.3 to A.6, the petitioner clearly established that he sustained two fractures and two simple injuries. Due to fractures and simple injuries, the petitioner might have suffered a lot. The Tribunal has awarded an amount of Rs.5,000/- towards pain and suffering and Rs.8,000/- towards permanent disability. The Tribunal has rightly considered the nature of the fractures and injuries sustained by the petitioner. The material available on record clinchingly establishes that the petitioner took treatment as inpatient in Kamineni and Apollo hospitals. Taking into consideration the nature of the fractures and injuries sustained by the petitioner, I am inclined to award an amount of Rs.30,000/- towards pain and suffering instead of Rs.13,000/- awarded by the Tribunal under different heads. Basing on the oral testimony of PWs.4 and 5 and Exs.A.7 to A.10, the Tribunal has rightly awarded an amount of Rs.1,19,234/- towards medicines and treatment. As rightly pointed out by the learned counsel for the petitioner, the Tribunal has not awarded any amount towards extra nourishment. The parents of the petitioner might have spent some amount for extra diet. Taking into consideration the nature of the fractures sustained by the petitioner, I am inclined to award an amount of Rs.4,000/- towards extra nourishment. The family members of the petitioner might have visited the hospital for the treatment of the petitioner. Therefore, I am inclined to award an amount of Rs.3,000/- towards transportation charges instead of Rs.1,000/- as awarded by the Tribunal. Thus, the amount of compensation to which the petitioner is entitled to under various heads is as follows:

01.	Pain and suffering	Rs. 30,000/-
02.	Medicines and treatment	Rs.1,19,234/-
03.	Extra nourishment	Rs. 4,000/-
04.	Transportation charges	Rs. 3,000 /-
	Total:	Rs.1,56,234/-

The amount of compensation awarded under various heads is just and reasonable to meet the ends of justice.

15. In the result, the Appeal is allowed in part by enhancing the quantum of compensation from Rs.1,33,234/- to Rs.1,56,234/- with interest at the rate of 7% per annum from the date of petition till the date of deposit. Respondent Nos.1 and 2 are jointly and severally liable to pay the compensation to the petitioner. There shall be no order as to costs.

16. Consequently, Miscellaneous Petitions, if any, pending in this Appeal shall stand closed.

T.SUNIL CHOWDARY, J

Date: 31.03.2015

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