

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1977 of 2005

Date: 08-12-2015

Between:

Syed Subhahani

.... Appellant

AND

APSRTC, represented by its Managing Director
Hyderabad

.... Respondent

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1977 of 2005

ORDER:

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The petitioner in MVOP.No.831 of 2000 on the file of Motor Accident Claims Tribunal-cum-I Additional District Judge, Cuddapah is the appellant herein.

The O.P. was filed seeking compensation of Rs.1,50,000/- for the injuries sustained by her in a motor accident that occurred on

28-06-2000 due to rash and negligent driving of the RTC bus bearing No.AP-9Z-7600 by its driver, when she was returning to her house from Thana on foot on the extreme left side of the road.

The Tribunal framed the following issues:

- 1) Whether the petitioner received injuries in a motor vehicle accident dated 28-06-2000 at 7.30 P.M. near water tank in Rayachoti due to rash and negligent driving of RTC bus bearing No.AP-9Z-7600 belonging to respondent?

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

The petitioner examined herself as PW.1 and marked Exs.A.1 to A.5. With regard to the first issue, the Tribunal gave a finding that the accident took place due to rash and negligent driving of the driver of the bus bearing No.AP-9Z-7600.

Regarding quantum of compensation, the petitioner was admitted in hospital on 29-06-2000 and discharged on 13-09-2000. She has undergone surgery twice. She suffered the following injuries:

- 1) A contusion 3 X 2cms on the left frontal region;
- 2) An abrasion 1 X ½cm over the left frontal region;
- 3) A lacerated wound 1 X ½ cm over the right palm;
- 4) A lacerated wound 1 X ½ cm over the right wrist joint;
- 5) An abrasion 4 X 2 cm over the left dorsum of foot;
- 6) An abrasion 4 X 2 cm over the left dorsum of hand;
- 7) A crush injury 30 X 10 cm over the medial side of left thigh, fresh. Bleeding present.

The Tribunal awarded an amount of Rs.40,000/- for the injuries and an amount of Rs.10,016/- towards medicines. Thus, an amount of Rs.50,016/- was awarded by the Tribunal by its award dated 08-07-2004. Seeking enhancement of the said amount, the present appeal is filed.

In view of the evidence, as the petitioner was in hospital for a period of 77 days and having undergone surgery twice, the amount awarded by the Tribunal towards injuries as well as medical expenses is unjust.

As per the evidence of the petitioner, she was stated to be a

tailor and earning Rs.100/- per day. After the accident, she could not attend the work of tailoring. She was aged about 48 years at the time of accident. The 7th injury stated above is a crush injury over the medial side of left thigh. In the circumstances, her avocation must have been affected.

Since she had undergone surgery twice, she must have lost her earning capacity. As a tailor she must be earning not less than Rs.2,500/- per month and even if 30% enhancement of the said income is applied, it would come to Rs.3,250/-. So, her monthly income can be taken as Rs.3,000/- per month. For the present age of 48 years, the appropriate multiplier is 13 as per **Sarla Verma v. Delhi Transport Corporation** (2009 (6) SCC 121). If 40% of the disability is taken, the loss of income would come to Rs.1,87,200/- (3000 X 12 X 13 X 40%). She was hospitalized for a period of 77 days and must have lost her earnings for those days, which can be quantified as Rs.7,500/-. For the injuries sustained, she is entitled for an amount of Rs.20,000/-. She must have undergone pain and suffering during the period of hospitalization with the injuries, for which she must be given an amount of Rs.20,000/-.

In view of the same, the award passed by the Tribunal on 08-07-2004 awarding an amount of Rs.50,016/- is enhanced to Rs.2,34,700/-. But the enhanced amount shall be paid only after paying the deficit court fee and such enhanced amount shall carry the same rate of interest at 9% p.a. from the date of petition till realization.

The appeal is allowed accordingly. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 08-12-2015

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