

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1782 of 2005

Date: 19-11-2015

Between:

Shaik Shabbir

.... Appellant

AND

APSRTC, represented by its Managing Director,

Musheerabad

.... Respondent

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1782 of 2005

ORDER:

-

This appeal is preferred by the injured who was a claimant in MVOP.No.1167 of 2000 on the file of Motor Accident Claims Tribunal-cum-IV Additional District Judge, Guntur. He filed O.P. claiming compensation of Rs.2,77,000/- for the injuries sustained by him in a motor accident that occurred on 12-02-1999. It was his case that he was working as driver of the lorry and took the lorry with stones to Kanakadripalli on 12-02-1999 and that after unloading the stones, when he was going as a pillion rider on a Hero Honda motorcycle to Kanakadripalli from Kolimigunda, the driver of the bus bearing No.AP-10-Z-47 coming from Tadipatri in an opposite direction dashed the motorcycle as a result of which he fell down and sustained grievous injuries to his right leg. He

was aged about 30 years on the date of accident and used to earn Rs.2,500/- per month as salary and Rs.1,500/- as batta.

The Tribunal, on evidence, held that the accident occurred due to rash and negligent driving of the driver of the bus. With regard to compensation, it noticed that the petitioner sustained three grievous injuries as per Ex.A.3 wound certificate, which reads as follows:

“1) Lacerated wound of right lower inner leg; 2) Diffuse swelling of right wrist and lower end of fore arm; 3) Diffuse swelling of right lower 1/3rd of right. They are all fractures.”

The income of the injured was taken as Rs.15,000/- p.a. and applied the multiplier of 16. As disability of 20% was suffered by the petitioner, an amount of Rs.48,000/- was awarded towards disability. Besides the said amount, an amount of Rs.15,000/- towards pain and suffering, Rs.12,900/- towards medical treatment and Rs.2,100/- towards attendant charges were awarded. In all, an amount of Rs.78,000/- was awarded and seeking enhancement of the said amount, the present appeal is filed.

Since the petitioner was claiming as a driver of the lorry and the owner of the lorry deposed as PW.3, the Tribunal should have accepted the said evidence with regard to payment of Rs.2,500/- as salary though there was no documentary evidence to that effect. The said amount of Rs.2,500/- would have been enhanced by 30% in view of future prospects of raising in income. If that amount is enhanced as such, the total income comes to Rs.3,250/- (Rs.2,500/- + 750/- (2,500 X 30%) = Rs.3250/-; Rs.3250/- X 12= Rs.39,000/-) and by applying the same multiplier to such income with 20% disability (Rs.39,000/- X 16 X 20% disability), the loss of disability would come to Rs.1,24,800/-. The amount awarded towards pain and suffering is inadequate and it should be enhanced to Rs.50,000/- As per the evidence, the injured was hospitalized for 15 days and he should have been awarded an amount of Rs.1,250/- towards loss of earnings during that period. The attendant charges was awarded for an amount of Rs.2,100/- and it can be safely enhanced to Rs.5,000/- towards

attendant charges and extra nourishment. The total amount of compensation to which the appellant is entitled comes as follows:

Heads Award of Tribunal Enhancement

Loss of disability Rs.48,000/- Rs.1,24,800/-
Pain and suffering Rs.15,000/- Rs. 50,000/-
Medical Expenses Rs.12,900/- -----
Attendant charges Rs. 2,100/- Rs. 5,000/-
Loss of earnings ----- Rs. 1,250/-

Rs.78,000/- Rs.1,81,050/-

Accordingly, the award dated 29-11-2004 in MVOP.No.1167 of 2000 on the file of Motor Accident Claims Tribunal-cum-IV Additional District Judge, Guntur, awarding an amount of Rs.78,000/- is modified enhancing the compensation from 78,000/- to Rs.1,81,050/-. The appeal is partly allowed and the enhanced amount shall carry interest at 9% p.a. from the date of petition till the date of realisation. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.

Date: 19-11-2015

Ksn

RAMALINGESWARA RAO, J