

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A. No.128 of 2008

JUDGMENT:

The instant appeal is preferred by the Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation') challenging the order dated 24.07.2007 passed in O.P.No.1101 of 2005 on the file of Chairman, Motor Accidents Claims Tribunal-cum-XVII Additional Chief Judge-cum-III Additional Metropolitan Sessions Judge, Hyderabad (for short, 'the Tribunal'), whereby and whereunder, a sum of Rs.1,39,232/- was granted as against the claim of Rs.3,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') and the Rules framed thereunder, for the injuries sustained by the petitioner in a road accident.

2. The respondent herein is the petitioner, while the appellant Nos.1 and 2 herein, who are the Depot Manager of the Corporation and the Corporation respectively, were the respondents 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 11.12.2004, the petitioner was returning on his TVS Victor motorcycle bearing registration No.AP 9DKTR 4478 from Balaji Temple, Chilkur, along with his friend Venkat Reddy, and when they reached near REVL Company at about 9-15 a.m., an RTC bus bearing registration No.AP 10Z 6797 of Tandur Depot proceeding ahead dashed against steering auto bearing registration No.AP 11V 2398, as a result of which, the auto came in zigzag manner and dashed the motorcycle of the petitioner, resulting in both of them falling down and sustaining multiple and grievous injuries. The petitioner claims that he was shifted to Shadan Hospital, Ranga Reddy District and later he was admitted in NIMS Hospital, Panjagutta and undergone surgical intervention for fracture of both bones of right tibia and fracture of right leg and after discharge from NIMS Hospital, according to him, he underwent treatment in a private hospital. The Station House Officer, Moinabad Police Station registered the said accident in Crime No.196 of 2004 for the offences punishable under Sections 304-A and 337 I.P.C. against the driver of the RTC bus. The petitioner stating that he received appointment letter from Zensar

Company, Pune, Maharashtra State on a monthly salary of Rs.29,230/- and he had to join the said post, but on account of injuries, he lost the said job and his future and his marriage prospects were impaired, sought Rs.3,00,000/- as compensation from the Corporation.

5. Before the Tribunal, counter was filed by the Corporation stating that the driver of the bus had slowed down his bus and came stationed almost by taking the bus out of the road margin itself to avert the taking place of accident and the driver of the auto, since lost control over the auto, dashed against the bus and later collided with the petitioner's motorcycle, and, therefore, no rash and negligent driving can be attributed to the driver of the bus. Hence, sought to dismiss the claim petition.

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 marking Exs.A.1 to A.15; whereas, on behalf of the Corporation, no witnesses were examined and no documents were marked.

7. The Tribunal, on appraisal of evidence on record, both, oral and documentary, let in by the parties, held issue No.1 in favour of the petitioner finding that due to rash and negligent driving of the driver of the RTC bus, the accident had occurred. On issue No.2, the Tribunal granted a sum of Rs.25,000/- under the head 'pain and suffering' Rs.31,172/- towards medical expenses, Rs.2,500/- towards extra nourishment, Rs.2,500/- towards incidental charges, Rs.63,060/- towards loss of earnings during the period of treatment and bed rest and Rs.15,000/- for discomfort and inconvenience, and, thus, granted a total sum of Rs.1,39,232/- as compensation with interest at 7.5% per annum from the date of petition till realisation.

8. It is the aforesaid order which is under challenge in the instant appeal by the Corporation contending in the grounds of appeal that only due to rash and negligent driving of the auto driver the accident had occurred. It is also stated that the Tribunal, somehow, overlooked the fact that the auto dashed the claimant's vehicle, but not the RTC bus. It is further stated that the Tribunal was wrong in awarding a sum of Rs.1,39,232/- under various heads and the same is excessive, and, therefore, sought to modify the order and decree by reducing the compensation.

9. Heard Sri N.Vasudeva Reddy, learned Standing Counsel for the Corporation. Despite service of notice on respondent-claimant, none appears for him.

10. Perused the order under challenge and the evidence on record, both, oral and documentary, let in by the petitioner.

11. The learned counsel for the appellant-Corporation contends that the Tribunal was not right in granting Rs.31,172/- towards medical expenses, more particularly, Rs.14,005/- towards purchase of required medicines were not covered under Exs.A.6 and A.7 and none was examined to prove the medical expenses.

12. It is not in dispute that Ex.A.6 relates to NIMS Hospital. The medical bill issued by NIMS Hospital was for Rs.17,167/- as the petitioner was treated as an inpatient from 14.12.2004 to 26.12.2004 and he underwent surgical intervention on 14.12.2004 for the injury sustained. Ex.A.4 relates to Shadan Hospital, Hyderabad and Ex.A.5 relates to NIMS Hospital and it is discharge summary and it is reflecting that the petitioner sustained closed fracture of right tibia 4/m 1/3rd joint and surgery was done on 14.12.2004. The procedure done shows orific DCP (implants – A.O.), the medical bills were marked as Ex.A.6. It is no doubt true, none connected with Ex.A.6 was examined, but certainly, the amounts mentioned therein cannot be doubted in view of Ex.A.5 showing that the petitioner was admitted on 11.12.2004 and discharged on 26.12.2004 with all relevant particulars, such as, IP number, service and unit, in which the petitioner was treated. Therefore, not only the amount of Rs.17,167/- covered by Ex.A.6 but also the amount of Rs.14,005/- towards purchase of medicines were rightly granted by the Tribunal since the bunch of medical bills would show that they relate to the period during which the petitioner undergone treatment as an inpatient in NIMS Hospital and the pharmacy is located in the premises of the NIMS Hospital.

13. Next submission of the learned counsel for the Corporation is that the Tribunal awarded Rs.63,060/- as compensation for loss of earnings during the period of treatment and bed rest, despite the fact that the petitioner was not employed on the date of accident and subsequently he was appointed in Oracle India Private Limited. It is no doubt true, on the date of accident, he was not employed, but Ex.A.14 would clearly show that it was his appointment order, requiring the petitioner to join on 13.12.2004 in Zensar Technologies Limited, Pune, Maharashtra State, which was issued on 03.12.2004 and the salary package annexed thereto would show the basic at Rs.7,000/- with H.R.A. of Rs.3,500/-, India allowance of Rs.10,000/-, consolidated allowance of Rs.7,530/-, conveyance allowance of Rs.1,200/-, making

a total salary of Rs.29,230/- per month and Rs.4,20,040/- per annum inclusive of medical, L.T.A., provident fund, gratuity and variable pay. The accident in this case had occurred on 11.12.2004, while the petitioner was returning from Chilkuri Balaji Temple and he lost the job on account of the said accident. Therefore, that finding recorded by the Tribunal based on Ex.A.14 cannot be interfered with, when looked in the facts and circumstances occurring in this case. Therefore, the amount of Rs.63,060/- granted by the Tribunal towards loss of earnings during the period of treatment and bed rest cannot be disturbed. Even granting of Rs.2,500/- towards extra nourishment appears to be on lower side. Thus, viewed from any angle, the amount of compensation granted by the Tribunal cannot be construed as either excessive or arbitrary, and, hence, there is absolutely no merit in the appeal.

14. Therefore, the instant appeal is dismissed confirming the order and decree passed by the Tribunal in all respects. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

21st April, 2015

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