

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

M.A.C.M.A.No.2029 of 2005

-

Between :

Smt. Munira Begum W/o.Mohd. Anwar

... Petitioner

AND

K. Ravinder S/o.K.Rajaiah

and another.

... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

M.A.C.M.A.No.2029 of 2005

-

JUDGMENT :

The petitioner in O.P.No.1662 of 2001 on the file of the Motor Accident Claims Tribunal (III A.D.J.) (FTC), Nizambad, is the appellant herein. The petitioner filed the claim petition claiming an amount of Rs.3,00,000/- for the injuries sustained by her in a motor accident that occurred on 08.08.2001 when she along with others was travelling in an auto bearing No.AP 25 T 7974 to Dharmaram from Nizamabad and at about 12:00 mid night when the auto reached near Bardipur Village limits a mini lorry bearing No.AP 15 U 3033 came in opposite direction at high speed and hit the auto and a

scooter bearing No.ABX 9269, which was proceedings by the side of the auto. In the said accident, all the inmates of the auto sustained injuries and the scooterist sustained head injury and died on the spot. The petitioner was immediately shifted to Government Headquarters Hospital, Nizamabad, and from there she was shifted to a private hospital for further treatment.

2. The first respondent-owner of the mini lorry, remained *ex parte* and the second respondent-Insurance Company filed written statement and contested the case.

3. On the basis of the pleadings, the following issues were framed by the Tribunal:

1. Whether the accident has taken place due to rash and negligent driving of the vehicle bearing No.AP 15 U 3033 by its driver?

2. Whether the petitioner is entitled for compensation. If so to what just amount and from which of the respondents?

3. To what relief?

4. PWs.1 and 2 were examined on behalf of petitioner and Exs.A.1 to A.8 were marked. On behalf of the second respondent, RW.1 is examined and Exs.B.1 to B.3 were marked.

5. The Tribunal on the basis of oral and documentary evidence held that the accident occurred due to rash and negligent driving by the driver of the mini lorry. So far as compensation is concerned, the same was dismissed on the ground that the owner of the mini lorry in whose favour the registration certificate was issued as on the date of accident was not made a party. However, the Tribunal arrived at Rs.10,000/- for the grievous injury, Rs.2,000/- for the simple injury, Rs.20,000/- towards cost of medicines and extra nourishment, Rs.3,000/- towards pain and suffering and Rs.2,000/- towards transportation charges. But, in view of the dismissal of the claim petition, the present appeal is filed seeking just compensation for the

injuries sustained by the petitioner.

6. Ex.A.3-wound certificate issued by the Civil Assistant Surgeon, Government Headquarters Hospital, Nizambad, shows that the petitioner sustained one simple injury on the right leg and one grievous injury on the left leg. It was also recorded that there was fracture of both bones of left leg. The petitioner was admitted in Amruthalaxmi Multi Specialty Hospital, Nizamabad, where she was operated twice in the month of August and December, 2001. This is evident from Ex.A.4. The petitioner filed Ex.A.6-medical bills issued by the private hospital on 20.10.2001 for a sum of Rs.23,550/-. The petitioner also filed medical bills towards medicines for an amount of Rs.30,973/- including the hospital charges. In view of the above evidence, it is clear that the petitioner took treatment in a private hospital for the fracture of both bones to the left leg. But, the Tribunal fixed an amount of Rs.12,000/- towards the injuries sustained by the petitioner. In view of the fracture of both bones of left leg, it is just and reasonable to award an amount of Rs.25,000/- instead of Rs.12,000/- fixed for grievous and simple injuries. In respect of medical bills for an amount of Rs.38,000/-, the Tribunal fixed the charges towards costs of medicines at Rs.20,000/-. In view of the evidence available on record, the petitioner is entitled to Rs.38,000/- instead of Rs.20,000/-. An amount of Rs.3,000/- was fixed towards pain and suffering, but in view of the nature of injuries sustained by the petitioner, she is entitled to Rs.20,000/-. Further, the Tribunal arrived at Rs.2,000/- towards transportation charges, which required to be awarded of Rs.10,000/- inclusive the charges for extra nourishment. The Tribunal observed that she could not prove that she was earning Rs.5,000/- per month and accordingly did not award any amount towards the period of hospitalization. Even as house wife, she is entitled to some amount of compensation, accordingly, she is entitled for a sum of Rs.6,000/- for two months. Thus, the petitioner is entitled to Rs.99,000/-.

7. Learned counsel for the second respondent tried to support the dismissal of the petition on the ground that the owner in whose name

the vehicle was transferred was not made a party and in the absence of the said owner, the claim petition filed by the petitioner is not maintainable. The evidence on record shows that Ex.B.1-policy was issued in the name of the first respondent. The policy was in operation as on the date of the accident. But, Ex.B.2-copy of the registration certificate was in the name of one Kondaiah, who was not made a party to the proceedings. Even assuming that the vehicle was transferred to Kondaiah, as on the date of accident there is a valid policy issued in favour of the first respondent and there is no dispute with regard to the involvement of the vehicle and validity of the policy as on the date of the accident. In the said circumstances, since the award of compensation is pursuant to a beneficial legislation for helping the victims, who met with an accident, the petitioner cannot be denied of just compensation on the ground of non-impleading the owner in whose name the registration certificate stood. In fact, the Tribunal ought to have taken necessary steps for impleading the said Kondaiah during the course of proceedings. In view of the same, the award dated 01.06.2005 dismissing the claim petition of the petitioner is set aside and the petitioner is awarded an amount of Rs.99,000/- with interest at 9% p.a. from the date of the petition till the date of realization.

8. The appeal is, accordingly, allowed in part.

9. Miscellaneous petitions pending, if any, shall stand closed. No costs.

A. RAMALINGESWARA RAO, J

16th December 2015.

mar

