

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.2041 of 2005

JUDGMENT:

This appeal is preferred by the injured, who filed O.P.No.23/2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Nizamabad (for short, 'the Tribunal'), claiming compensation of Rs.2,00,000/- for the injuries sustained by him in a motor accident that occurred on 29.06.2000.

The case of the injured was that he was a driver-cum-businessman in Samundralingapur Village and when he was driving his lorry bearing registration No.APJ-6884 from Gollapally to Kamareddy Market Yard with load of paddy along with his father-in-law and cleaner, and when his lorry reached between Bhavanipet and Palwancha village at about 10.30 P.M., a lorry bearing registration No.TN-27-F-3282 came from Kamareddy side with high speed and dashed his lorry. In the said accident, he sustained multiple injuries and his father-in-law and cleaner also sustained injuries. Immediately, he was shifted to the Government Hospital, Kamareddy, where he was treated as inpatient. Though he estimated the loss of income as Rs.43,12,000/-, he restricted his claim to Rs.2,00,000/-.

The Tribunal framed the following issues:

- 1) Whether the accident was due to rash and negligent driving of the lorry bearing No.TN-27-F-3282 by its driver?
- 2) Whether the petitioner is entitled for compensation? If so, to what amount and against which of the respondents?
- 3) To what relief?

Before the Tribunal, the petitioner was examined himself as PW1 and examined one Doctor as PW2, and exhibits A1 to A5 were marked on behalf of the petitioner.

The Tribunal, on the basis of oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the lorry bearing registration No.TN-27-F-3282 by its driver.

With regard to the compensation, the Tribunal noticed that Ex.A.3, Police requisition-cum-injury certificate, showed that the petitioner sustained multiple abrasions all over the body and also a fracture of tibia, but it was disregarded stating that it was an attested copy issued by the Station House Officer of Machareddy Police Station, and it cannot be accepted. The Tribunal noticed that as per the charge sheet-Ex.A2, the Doctor, who was a Deputy Civil Surgeon of Government Hospital, Kamareddy, examined as LW6, issued a medical certificate stating that the injured sustained simple injuries. The charge sheet was also filed for causing simple injury. Though PW2 gave evidence stating that the petitioner sustained 40% permanent partial disability, his evidence was not taken into consideration. As PW2 was a private doctor, who did not treat the petitioner, the Tribunal came to the conclusion that the claim was false and awarded an amount of Rs.3,000/- as compensation towards pain and suffering for the simple injury sustained by the petitioner.

I have carefully perused Ex.A.3 – Wound Certificate, which clearly showed that there was a fracture of tibia apart from multiple abrasions all over the body; that was the earliest document showing the wounds of petitioner in the accident. The injuries mentioned in the said document should have been taken note of by the Tribunal. Though the petitioner did not file any evidence with regard to his hospitalisation, surgery and treatment, in view of the fracture mentioned in Ex.A.3-Wound Certificate, he is entitled for some amount towards injury, pain and suffering and loss of earnings. In the absence of any evidence filed by the petitioner, this Court is not in a position to assess the compensation separately for each of the heads, but this Court feels that an amount of Rs.3,000/-, awarded by

the Tribunal, was not just, and accordingly, enhanced to Rs.25,000/- (Rupees twenty five thousand only). The enhanced amount shall carry interest @ 9% per annum from the date of petition till the date of realisation.

Accordingly, this Appeal is allowed in part. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

09.12.2015

MVA