

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.1956 of 2005

JUDGMENT:

Heard learned counsel for the appellant.

2. The injured petitioner in M.V.O.P.No.419 of 1999 on the file of Motor Accidents Claims Tribunal-cum-I Additional District Judge, Srikakulam, is the appellant herein. He filed the claim petition claiming an amount of Rs.2,00,000/- for the injuries sustained by him in the accident that occurred on 21.03.1998 at about 13:30 hours at Nagavali river bed near Killipalem Village in Srikakulam District.

3. His case was that on the said date, he along with other boarded tractor-trailer bearing registration No.AP-30-T-541 and 539 for discharging the duties as labourers for loading and unloading sand. After loading sand, on instructions of the tractor driver, the petitioner was removing the sand under the tyres of the tractor to enable the 1st respondent driver to move the vehicle. All of a sudden the vehicle was started, as a result of which, the petitioner's foot was crushed under the tyres and thereby he sustained crush injury on his left foot besides other injuries. Immediately, he was taken to Government Hospital, Srikakulam for treatment, where he underwent treatment for about two months as inpatient and thereafter, he took treatment in a private hospital.

4. The Tribunal framed the following issues:

- “1. Whether the accident occurred due to rash or negligent driving of the tractor-trailer by the first respondent?
2. Whether the petitioner is entitled to recover the compensation and if so, what amount of compensation and from which of the respondents?
3. To what relief?”

5. Petitioner was examined as P.W.1 besides examining P.Ws.2 and 3. Exs.A.1 to A.3 were marked on his behalf. The insurance policy was marked as Ex.B.1.

6. On the basis of oral and documentary evidence, the Tribunal held that the accident occurred due to rash and negligent driving of driver of tractor-trailer/1st respondent.

7. With regard to compensation, the Tribunal awarded the following amounts:

1. Compensation for loss of earning for actual period of hospitalisation. Rs. 3,705-00

2. Compensation for permanent partial disability. Rs.15,000-00

3. Attendant's charges Rs. 1,500-00

4. Extra-nourishment charges Rs. 1,000-00

5. Actual medical expenses covered by Ex.A.5 medical bills. Rs. 1,162-50

6. Compensation for mental agony, pain and suffering Rs. 5,000-00

7. Compensation for crush injury Rs. 5,000-00

Total Rs.32,367-50

rounded off to Rs.32,370-00

8. The Tribunal noticed that as per Ex.A.4, the petitioner was admitted in Government Headquarters Hospital, Srikakulam on 21.03.1998 and was discharged on 18.05.1998. Therefore, the petitioner lost earnings for about 57 days. If it is calculated at Rs.65/- per day, it comes to Rs.3,705/-. In the absence of any evidence about taking treatment thereafter, the Tribunal did not award any amount for the subsequent period towards loss of earnings. The Doctor, who was examined, on commission, as P.W.3 stated that the petitioner has not sustained permanent total disability, but he sustained 40% disability and it would be difficult for him to stand because there was shortening of one inch to his left leg.

9. In the circumstances, the amounts awarded by the Tribunal under different heads are enhanced as follows:

1. Compensation for loss of earning for actual period of hospitalisation. Rs. 6,000-00

2. Compensation for permanent partial disability. Rs.50,000-00

3. Attendant's charges Rs. 3,000-00

4. Extra-nourishment charges Rs. 3,000-00

5. Actual medical expenses covered by Ex.A.5 medical bills. Rs. 1,163-00

6. Compensation for mental agony, pain and suffering Rs. 10,000-00

7. Compensation for crush injury Rs. 10,000-00

Total Rs.83,163-00

Rounded off to Rs.83,000-00

10. In the result, the appeal is allowed enhancing the compensation payable to the petitioner from Rs.32,370/- to Rs.83,000/- with subsequent interest at 6% per annum from the date of petition till the date of realization on the enhanced amount. There shall be no order as to costs.

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

A. RAMALINGESWARA RAO, J

DECEMBER 07, 2015

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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Date: 07.12.2015

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