

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

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M.A.C.M.A.No.635 of 2009

JUDGMENT:

This appeal is filed by the appellant/petitioner assailing the judgment and award, dated 24.04.2004 passed in M.V.O.P.No.841 of 1999 on the file of the Motor Vehicles Accidents Claims Tribunal (District Judge), Guntur (for short, 'the Tribunal').

2. For the sake of convenience, the parties are hereinafter referred to as they are arrayed in the O.P. before the Tribunal.

3. The facts leading to filing of the appeal, in brief, are as follows:

The petitioner filed the petition under Sections 166 and 140 of the Motor Vehicles Act, 1988 claiming compensation of Rs.2,00,000/- for the injuries sustained in a motor vehicle accident that occurred on 23.02.1999. On the date of accident, the petitioner boarded the trailer along with paddy bags at Khaitepalli to go to Repalle. When the tractor reached near Nallurivaripalem, the driver of the tractor had driven the same in a rash and negligent manner, due to which, the trailer turned turtle. Due to the accident, the petitioner sustained fractures and injuries and took treatment in Sanjeevi Hospital of Dr.Y.Lakshmana Swamy at Guntur and spent huge amount for medicines. The Station House Officer, Repalle registered a case in Crime No.30 of 1999 under Section 338 I.P.C. against the driver of the crime vehicle. Hence, the petition.

4. During pendency of the case, the first respondent died and his legal representatives were brought on record. The third respondent filed counter and other respondents adopted the same. The third respondent denied all the material averments *inter alia* contending that the accident occurred due to the rash and negligent act of the petitioner and there was no negligence on the part of the driver of the

tractor and trailer. Due to mis-understandings, the petitioner foisted a false case against the respondents. There is a delay of one and half months in lodging the complaint. Therefore, the petition is liable to be dismissed.

5. Basing on the above pleadings, the Tribunal framed the following issues:

1. Whether the petitioner sustained injuries in the accident due to rash and negligent driving of the Tractor No.AP.7V-2226 and Trailer No.AP.7V-2227 by its driver?
2. To what compensation amount the petitioner is entitled to and against whom?
3. To what Order?

6. During the course of trial, on behalf of the petitioner, PWs.1 to 3 were examined and Exs.A.1 to A.6 were marked. On behalf of the respondents, RW.1 was examined and no documents were marked.

7. Basing on the material available on record, the Tribunal partly allowed the petition by granting compensation of Rs.38,900/-.

8. Having not satisfied with the judgment and award of the Tribunal, the petitioner/claimant preferred the present appeal.

9. Sri K.Suresh Reddy, the learned counsel for the appellant, submitted that the Tribunal has not granted any amount under the head of pain and suffering. He further submitted that the amount of compensation awarded under various heads is not just and reasonable.

10. Per contra, Sri M.Sudhir Kumar, the learned counsel for respondent Nos.2 to 6, submitted that the petitioner foisted a false case in order to claim compensation. He further submitted that the compensation awarded by the Tribunal is just and reasonable.

11. Now the point for consideration is whether the Tribunal has

awarded just and reasonable compensation to the petitioner or not?

12. As per the finding of the Tribunal on issue No.1, the accident occurred due to rash and negligent driving of the driver of the tractor and trailer. For one reason or other, the respondents have not filed an appeal challenging the finding of the Tribunal so far as the manner of the accident is concerned. The finding recorded by the Tribunal became final so far as the manner of the accident is concerned. Hence, there is no necessity to discuss this aspect at length. I am fully agreeing with the finding of the Tribunal.

13. A perusal of the record reveals that the Tribunal considered various aspects while granting the compensation. It is an admitted fact that the petitioner sustained a fracture to right leg and took treatment as in-patient from 23.02.1999 to 08.03.1999 in the Hospital of Dr.Lakshmana Swamy, Guntur. Due to fracture, the petitioner might have suffered a lot. As rightly pointed out by Sri K.Suresh Reddy, the learned counsel for the appellant, the Tribunal has not granted any amount towards pain and suffering.

14. Taking into consideration the nature of the fracture sustained by the petitioner, I am inclined to award an amount of Rs.15,000/- towards pain and suffering. The compensation awarded by the Tribunal under various heads is just and reasonable. There are no grounds much less valid grounds to interfere with the well considered judgment and award of the Tribunal except to the extent of granting compensation under the head of pain and suffering.

15. In the result, the Appeal is allowed in part enhancing the quantum of compensation from Rs.38,900/- to Rs.53,900/- with interest at the rate of 7.5% from the date of petition till the date of realisation. There shall be no order as to costs.

16. Consequently, Miscellaneous Petitions, if any, pending in this

Appeal shall stand closed.

T.SUNIL CHOWDARY, J

21st January, 2015
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