

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

M.A.C.M.A. No.1614 OF 2009

JUDGMENT:

This appeal is preferred by the appellant/petitioner challenging the judgment and award, dated 18.07.2008 passed in O.P.No.1942 of 2006 on the file of the X Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad (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 present appeal are, briefly, as follows:

On 28.10.2005, the petitioner boarded the A.P.S.R.T.C. bus bearing No.AP 11Z 3683 at Mahatma Gandhi Bus Station, Hyderabad to go to Nalgonda and when the bus reached Malakpet Railway Over track, Hyderabad, the driver of the bus had driven the same in a rash and negligent manner and applied sudden break due to which, the petitioner fell down from the bus and sustained fractures and injuries. The accident occurred due to the rash and negligent driving of the driver of the bus against whom the Station House Officer, Chaderghat Police Station registered a case in Crime No.102 of 2006 for the offence punishable under Section 338 I.P.C. The petitioner spent huge amount towards treatment and medicines. By the time of accident, the petitioner was earning Rs.10,000/- per month by doing cloth business. Due to injuries, the petitioner could not attend his work for long time and thereby, lost his income. Respondent Nos.1 and 2 are jointly and severally liable to pay compensation of Rs.2,00,000/- to the petitioner.

4. The respondents filed counter denying all the averments made in the petition *inter alia* contending that the accident occurred due to the negligence of the petitioner and there was no negligence on the part of the driver of the bus and the petitioner sustained only simple injuries. Hence, the petition may be dismissed.

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

1. Whether the accident resulting in injuries to the petitioner occurred owing to the rash and negligent driving of the driver of the APSRTC bus bearing No.AP 11 Z 3683?

2. Whether the petitioner is entitled for compensation, if so to what amount and from whom?
3. To what relief?

6. During the course of trial, on behalf of the petitioner, P.W.1 was examined and Exs.A.1 and A.2 were marked. On behalf of the respondents, no oral or documentary evidence was adduced.

7. Basing on the oral, documentary evidence and other material available on record, the Tribunal arrived at a conclusion that the accident occurred due to the rash and negligent driving of the driver of the bus which resulted in injuries to the petitioner and allowed the petition in part by awarding compensation of Rs.8,500/-.

8. Feeling aggrieved by the judgment and award of the Tribunal, the petitioner preferred the present appeal.

9. Heard Sri P.Sridhar Reddy, the learned counsel for the appellant/petitioner and Sri N.Vasudeva Reddy, the learned Standing Counsel for the respondents – Corporation.

10. The contention of the learned counsel for the petitioner is two fold: (1) The Tribunal has not properly considered the medical bills filed by the petitioner, and (2) The amount of compensation awarded by the Tribunal is too meagre.

11. Per contra, the learned Standing Counsel for the respondents submitted that the petitioner failed to prove the nature of injuries sustained by him. He further submitted that the Tribunal awarded just and reasonable compensation to the petitioner.

12. Now the point that arises for consideration in this appeal is:

Whether the Tribunal has awarded just and reasonable compensation to the petitioner or not?

Point:

13. As per the finding of the Tribunal, the accident occurred due to the rash and negligent driving of the driver of the bus. The finding of the Tribunal on issue No.1 became final in view of non-filing of an appeal or cross objections by the respondents. Having regard to the facts and circumstances of the case, I am of the considered view that the accident occurred due to the rash and negligent driving of the driver of the bus which resulted in injuries to the petitioner.

14. Except the self-served testimony of PW.1, there is no other convincing evidence to establish the nature of the injuries sustained by him. If really the petitioner sustained fractures, what prevented him to file the wound certificate. For the reasons best known, the petitioner did not choose to file the wound certificate. As per the recitals of Ex.A.1 – Certified Copy of F.I.R., the petitioner sustained injury to right hand only. Even though the petitioner did not produce any documentary evidence, the Tribunal on humanitarian grounds awarded an amount of Rs.6,000/- towards pain and suffering. The Tribunal also awarded an amount of Rs.2,000/- towards extra nourishment and medicines and Rs.500/- towards transportation charges. Due to injuries, the petitioner might not have attended to his work for some time. Taking into consideration the nature of the injuries sustained by the petitioner, I am inclined to award an amount of Rs.1,500/- towards loss of earnings. Thus, the amount of compensation to which the petitioner is entitled to under various heads is as follows:

01.	Grievous injury	Rs.5,000/-
02.	Pain and suffering	Rs.1,000/-
03.	Extra nourishment and medicines	Rs.2,000/-
04.	Transportation charges	Rs. 500/-
05.	Loss of earnings	Rs.1,500/-
	Total:	Rs.10,000/-

The amount of compensation awarded under various heads is just and reasonable to meet the ends of justice.

15. In the result, the Appeal is allowed in part by enhancing the quantum of compensation from Rs.8,500/- to Rs.10,000/- with interest at the rate of 7% per annum from the date of petition till the date of realisation. The respondents are liable to pay compensation amount. 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

Date: 24.03.2015

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