THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.Nos.1533 OF 2005 and 1321 of 2006

COMMON JUDGMENT:

Since the order under challenge in both these appeals is one and the same, both these appeals are being disposed of by this common judgment.

2. Challenging the order dated 17.04.2000 passed in O.P.No.16 of 2000 by the II Additional Chief Judge, City Civil Court, Hyderabad, the claimant preferred M.A.C.M.A.No.1533 of 2005 seeking enhancement of compensation and the APSRTC preferred M.A.C.M.A.No.1321 of 2006 seeking to set aside the impugned order.

3. Heard the learned counsel for both sides and perused the record. For clarity and convenience, the parties are hereinafter referred to as per their array before the Court below.

4. Learned counsel for the appellant (claimant) in M.A.C.M.A.No.1533 of 2005 and the respondent in M.A.C.M.A.No.1321 of 2006 would contend that the Court below had not granted any amount for medical expenses, compensation for loss of earnings and granted meagre compensation on other heads and ultimately prayed to enhance the same.

5. On the other hand, learned Standing Counsel appearing for the APSRTC representing the respondents in M.A.C.M.A.No.1533 of 2005 and appellants in M.A.C.M.A.No.1321 of 2006 would contend that there was no rash or negligence on the part of the driver of APSRTC bus

bearing No.AP 10Z 6254. The driver and insurer of the auto bearing No.AP 24U 1427 are necessary parties. The Court below had granted excess compensation of Rs.60,000/- for 50% disability. There is no record to show that the claimant incurred huge amount for medicines. Further, the petitioner was treated in Gandhi hospital. The Court below without any basis granted compensation of Rs.1,26,000/-, which is excessive and ultimately prayed to set aside the order passed against the APSRTC.

6. In view of the submissions made by both sides, the points that arise for determination are:-

1. Whether the claimant suffered injuries due to rash and negligent driving of the driver of APSRTC bus bearing No.AP 10Z 6254?

2. Whether the Court below justified in granting the compensation of Rs.1,26,000/-?

3. Whether the impugned order is liable to be set aside as contended by the APSRTC?

7. Point No.1:-

Though learned Standing Counsel for the APSRTC contended that there is rash and negligence on the part of the driver of the auto bearing No.AP 24U 1427, APSRTC did not choose to examine the driver of the RTC bus or any other person to substantiate its contention. P.W.1 categorically deposed about the occurrence of the accident and suffering injuries by him in that accident due to rash and negligent driving of the driver of APSRTC bus bearing No.AP 10Z 6254. Further, the documents marked as Ex.A1-certified copy of FIR, Ex.A2-certified copy of charge sheet, Ex.A3-certified copy of MLC,

Ex.A4-discharge summary, Ex.A5-Medical bills, Ex.A6-medical bills, Exs.A7 and A8-disability certificates, Ex.A9-bus pass issued by RTC under handicapped persons quota and Ex.A10-X-ray film, reveal the rash and negligence on the part of the driver of APSRTC bus bearing No.AP 10Z 6254. Under these circumstances, there are no grounds to take a different view. Therefore, the Court below had rightly held point No.1 in favour of the claimant. Hence, the driver and insurer of the auto bearing No.AP 24U 1427 are not necessary parties. This point is answered accordingly.

8. Point Nos.2 and 3 :-

As per the record, P.W.1 suffered injuries to his right upper thigh, abrasion forehead, nose forearm, knees, leg and foot etc. Injury No.1 is grievous, and other injuries are simple in nature. Ex.3-wound certificate of P.W.1-injured reveals the same. The evidence of P.W.2-doctor substantiates the evidence of P.W.1. Taking into consideration the facts and circumstances of the case, the Court below granted compensation as mentioned herein:-

For swelling and abrasions	Rs.27,000/-
Pain and suffering, extra nourishment and Transportation	Rs.10,000/-
Medical attendant	Rs.4,000/-
Permanent disability	Rs.60,000/-
Loss of future earnings	Rs.25,000/-
Total	Rs.1,26,000/-

9. Ex.A.7 is the disability certificate of P.W.1 issued by the District Medical Board, Nalgonda. Hence, there is ample medical evidence to substantiate the injuries. However, the

Court below had granted an amount of Rs.25,000/- as compensation for loss of future earnings. There is justification in awarding the said amount. As far as compensation under other scores are concerned, it is also just and reasonable. The Court below had rightly assessed and awarded the compensation of Rs.1,26,000/- basing on the oral and documentary evidence. There is nothing to take a different view as contended on behalf of the claimant-injured. Firstly, the medical bills did not inspire confidence to act upon. The Court below had taken a similar view as there is no specific amount mentioned therein. Further, the claimant was treated in Gandhi hospital. Under these circumstances, there is no substance in the contention raised in the appeal to enhance the compensation. The Court below had rightly directed the APSRTC to pay the compensation to the claimant. There is nothing to take a different view. The finding of the Court below is based on evidence on record.

10. In the result, both the appeals are dismissed.

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

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Dr. SHAMEEM AKTHER, J

26th June, 2018
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