

THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

M.A.C.M.A.No.832 of 2010

JUDGMENT:

Challenging the compensation awarded in O.P.No.1420 of 2008 dated 30.01.2010 by the Chairman, M.A.C.T-cum-I Additional Metropolitan Sessions Judge-cum-XV Additional Chief Judge, Hyderabad (for short “the Tribunal”), the claimant preferred the instant appeal.

2) The factual matrix of the case is thus:

a) The case of the claimant—Smt.V.Satyavani is that on 10.08.2007 while she was boarding the APSRTC bus bearing No.AP 10 Z 998 from front door at Telephone Colony bus stop, the driver of the said bus drove in a rash and negligent manner at high speed, due to which the claimant fell down and the said bus ran over the right leg of the claimant. In the resultant accident, the claimant sustained grievous injuries to right leg and other parts of the body. It is averred that the accident was occurred due to rash and negligent driving by the driver of the RTC bus. On these averments the claimant filed O.P.No.1420 of 2008 under Sections 166 and 163-A of Motor Vehicles Act, 1988 (for short “M.V Act”) against respondents/APSRTC and claimed Rs.4,00,000/- as compensation.

b) Respondents/APSRTC filed counter and denied all the material averments made in the petition and urged to put the claimant in strict proof of the same. Respondents further denied the method and manner of occurrence of accident. Respondents also denied the age, avocation and income of the claimant. Respondents finally contended that compensation claimed is excessive and prayed for dismissal.

c) During trial, PWs.1 and 2 were examined and Exs.A1 to A15 were marked on behalf of claimant. No oral or documentary evidence was adduced on behalf of respondents.

d) On appreciation of both oral and documentary evidence, the

Tribunal awarded total compensation of Rs.51,000/- with costs and interest at 6% p.a. against respondents 1 and 2 under the following heads:

Loss of income Rs.40,000-00

Pain and suffering Rs.10,000-00

Medical expenditure and other incidental charges Rs. 1,000-00

Total Rs.51,000-00

Hence, the appeal by claimant.

3) The parties in this appeal are referred as they stood before the Tribunal.

4) Heard arguments of Sri G.Vikram Chandra, learned counsel for appellant/claimant and Sri N.Vasudeva Reddy, learned counsel for respondents/APSRTC.

5 a) Impugning the award as low, learned counsel for appellant firstly submitted that the claimant suffered excruciating pain due to fracture of base of first metatarsal and degloving injury to her right foot for which she underwent surgery twice and in that view of the matter, she deserves compensation of Rs.20,000/- for pain and suffering as claimed by her but the Tribunal awarded only Rs.10,000/- which is a very low amount.

b) Secondly, he argued that due to degloving injury on the right foot and consequent skin grafting, the right foot of the claimant was disfigured as can be seen from Ex.A.15—photo and hence she deserves compensation for disfigurement of the right foot though not she deserves any compensation for disability which she did not suffer. The Tribunal did not consider this aspect and grant compensation.

c) Finally, he submitted that the Tribunal awarded a low interest of 6%

p.a.

He thus prayed to allow the appeal and suitably enhance the compensation.

6) Per contra, learned counsel for respondents/APSRTC argued that except suffering fracture of right metatarsal and degloving of foot skin, the claimant did not suffer any permanent disability and the injury suffered by her was not enough to terminate her from service and considering all these aspects, the Tribunal has awarded a just and reasonable compensation of Rs.51,000/- and hence there is no need to reconsider the same. He thus prayed to dismiss the appeal.

7) In the light of above rival arguments, the point for determination is:

“Whether the compensation awarded by the Tribunal is just and reasonable or needs interference”?

8) **POINT:** On a scrutiny of the facts and evidence, I find some force in the submission of learned counsel for appellant/ claimant. Exs.A.3 to A.5 would show that the claimant suffered fracture of base of first metatarsal with a degloving injury of the right foot, for which she underwent surgery twice i.e, on 10.08.2007 she was taken up for primary wound debridement and primary closure and POP slab application. On the second occasion i.e, on 06.09.2007, she was taken up for split skin grafting for raw area over right foot. Having regard to the fact that the claimant suffered fracture of right metatarsal with degloving injury, she must have suffered excruciating pain in her right foot while trying to walk. Hence as rightly claimed, she deserves compensation of **Rs.20,000/-** towards pain and suffering.

9) Then Ex.P.15—photograph would show that due to degloving and consequent skin grafting the right foot was disfigured. Therefore, though she did not deserve compensation for permanent disability which she did not suffer, still she deserves a reasonable amount for disfigurement of her right foot. In such consideration she is awarded **Rs.20,000/-**.

10) Then interest is concerned, the reasonable rate of interest is 7.5% p.a and hence the rate of interest is increased from 6% p.a from 7.5% p.a.

Thus, the total compensation payable to the claimants under different heads is as follows:

Loss of income Rs.40,000-00

Pain and suffering Rs.20,000-00

Disfigurement of right foot Rs.20,000-00

Medical expenditure & other incidental charges Rs. 1,000-00

Total Rs.81,000-00

So, the compensation is enhanced by Rs.31,000/- (Rs.81,000 minus Rs.51,000).

11) In the result, this MACMA is partly allowed and ordered as follows:

- a. Compensation is enhanced by **Rs.31,000/-** with proportionate costs and interest at 7.5% per annum from the date of OP till the date of realization.
- b. Respondents are directed to deposit the compensation amount within two months from the date of this judgment, failing which execution can be taken out against them.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 03.06.2015

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