

THE HON'BLE MRS JUSTICE ANIS

M.A.C.M.A.NO.1426 OF 2005

JUDGMENT:

This appeal is filed by the appellants/respondents under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the judgment and decree dated 27.06.2003, passed by the Chairman, Motor Accident Claims Tribunal-cum-Additional District Judge, Nizamabad, in O.P.No.598 of 1998, awarding compensation of Rs.70,000/-.

2. The respondent/petitioner filed the above Original Petition under Section 166 of the Act claiming compensation of Rs.1,00,000/- on account of the injuries sustained by her in a motor vehicle accident that occurred on 05.06.1998.

3. For the sake of convenience, the parties hereinafter will be referred to as they were arrayed in the Original Petition.

4. The brief averments made in the petition are that on 05.06.1998, at about 10.15 am while the petitioner was going to fetch water, when she reached near Nallur Village, N.H.7, Nizamabad District, RTC Bus bearing No.AP-10-Z-2145 came at high speed in rash and negligent manner dashed against the petitioner, due to which she sustained fracture to her left leg thigh, upper jaw two teeth broken and injury to neck and other multiple injuries. The petitioner was immediately shifted to Government Hospital, Armoor and thereafter, treated in Government Hospital, Nizamabad. The petitioner stated that she spent Rs.20,000/- towards medicines and extra nourishment. It is further stated that the petitioner was hale and healthy prior to the accident and claimed compensation of Rs.1,00,000/- against the respondents.

5. The brief averments made in the written statement filed by the first respondent are as follows:

The first respondent put the petitioner to prove the manner of accident, her age and income and specifically pleaded that the compensation claimed by the petitioner is high and excessive, and prayed the Court to dismiss the petition.

6. The second respondent filed a memo adopting the written statement filed by the first respondent.

7. Basing on the above pleadings, the Tribunal framed three issues and to substantiate her claim, the petitioner got examined PWs.1 and 2 and got marked Exs.A.1 to A.4 on her behalf. On behalf of the contesting respondent, no oral or documentary evidence was adduced.

8. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the RTC Bus bearing No.AP-10-Z-2145, due to which the petitioner sustained injuries and awarded compensation of Rs.70,000/- along with interest at 9% p.a. to the petitioner against both the respondents.

9. Aggrieved by the award passed by the Tribunal, the respondents preferred the present appeal.

10. The learned counsel appearing for the appellants/petitioners argued that the Tribunal has not considered the evidence in a perspective manner as to whether the petitioner suffered grievous injuries; that the petitioner took treatment in Government Hospital, Armour initially and thereafter, in the Government Hospital, Nizamabad; that the Tribunal also has not considered the evidence of PWs.1 and 2 regarding the daily income of the petitioner, but has taken notional income; that the Tribunal has granted excess amount under different heads; further, the evidence of P.W.2 cannot be taken into consideration in view of the judgment of this Court in AAO.No.3518 of 2004 and prayed the Court to reduce the compensation by allowing

the appeal.

11. On the other hand, the learned counsel for the claimant-respondent argued that after considering the oral and documentary evidence, the Tribunal granted just and reasonable compensation to the claimant and the said finding of the Tribunal needs no interference and prayed the Court to dismiss the appeal.

12. Having regard to the submissions made by the learned counsel appearing for both the parties, the points which are to be decided in this appeal are as follows:

1. Whether the compensation awarded by the Tribunal is just and reasonable?
2. Whether the appellants/petitioners are entitled for reduction of compensation as prayed for?

13. **POINTS:** A perusal of the record coupled with the evidence of P.Ws.1 and 2 and Exs.A1 and A2 shows that with regard to the accident, there is no dispute of the fact that on 05.06.1998, due to the rash and negligent driving of the driver of the RTC Bus bearing No.AP-10-Z-2145, accident occurred in which the petitioner sustained grievous injuries. Therefore, the said finding of the Tribunal needs no interference.

14. As far as the quantum of compensation awarded by the Tribunal is concerned, PW.1 in her evidence categorically stated about her receiving injuries and treatment taken by her in the Government Hospital, Armoor and also in the Government Hospital, Nizamabad. PW.2 is the doctor, who treated the petitioner and assessed the disability as 70%. The Tribunal by considering the evidence of PW.1 awarded Rs.60,000/- as compensation towards fracture, Rs.5,000/- towards medical expenses and extra nourishment and Rs.5,000/- towards past and future pain and sufferings. A perusal of the evidence of PWs.1 and 2 clearly shows that in the accident, the petitioner sustained grievous injuries and she was treated in both the hospitals.

PW2-doctor also stated that the petitioner was suffering with 70% disability. P.W.1 also stated that due to the grievous injuries, she is not in a position to move and filed Ex.A3-wound certificate. A perusal of the record shows that the petitioner no doubt suffered one grievous and one simple injury. Considering her evidence, the Tribunal rightly awarded Rs.70,000/- as compensation. To dispute the evidence of P.W.1, the contesting respondent did not adduce any evidence, oral or documentary. The finding of the Tribunal with respect to awarding of compensation at Rs.70,000/- needs no interference and the petitioner is entitled for the said amount.

15. As far as the rate of interest is concerned, in view of different rate of interests granted by the Hon'ble Supreme Court in the decisions reported in ***Sanobanu Nazirbhai Mirza and others v. Ahmedabad Municipal Transport Service***^[1] and ***Rebeka Minz and others v. Divisional Manager, United India Limited Insurance Company Limited and another***^[2], I am of the view that interest at 7.5% per annum shall be awarded on the amount from the date of appeal till the date of realization.

16. In view of the above discussion, the appeal is partly allowed by reducing rate of interest from 9% to 7.5% per annum from the date of appeal till the date of realization. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(ANIS, J)

21st September 2015
RRB

^[1] 2013 ACJ 2733

^[2] 2012 ACJ 2328