

THE HON'BLE SMT. JUSTICE ANIS

M.A.C.M.A.No.1177 of 2005

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JUDGMENT

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the award dated 04.02.2005 passed in O.P.No.255 of 1999 by the Chairman, Motor Accidents Claims Tribunal (District Judge) Nizamabad, awarding compensation of Rs.27,786/- for the injuries sustained by the petitioner in a motor vehicle accident.

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

3. The facts, in brief, are that on 04.04.1999 at 5.30 PM, while the petitioner was sitting on the platform of the RTC bus stand of Banswada for a bus, an RTC bus bearing No.AP-9/Z-8574 driven by its driver in a rash and negligent manner and at high speed without blowing horn and dashed against the petitioner, due to which, she fell down and the front tyre of the bus ran over her right leg, as a result of which, her right leg was fractured besides other injuries all over her body. She was admitted in Government Hospital, Banswada and later, she was referred to the Government Headquarters Hospital, Nizamabad. Subsequently, she was admitted in a private hospital, where Dr. T. Narsing Rao and Dr. L. Ramulu treated her. She spent Rs.1 lakh for her treatment. Due to the injuries, she was unable to move from the bed and she became permanently disabled. The petitioner used to earn Rs.10,000/- per month by doing kirana business and agriculture. According to the petitioner, respondents 1 and 2 are jointly and

severally liable to pay compensation to her.

4. The 2nd respondent filed written statement denying the averments made in the petition. The petitioner has to prove the manner of accident, age, occupation and her income at the time of accident. It is stated that the petitioner was negligent at the time of the accident and that on noticing her, the driver of the bus slowed down the bus by applying brakes, in spite of it, the bumper of the bus touched her legs resulting in minor and simple injuries. It is further stated that the claim of the petitioner is highly excessive and exorbitant and prayed the Court to dismiss the petition.

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

6. Basing on the above pleadings, the Tribunal framed two issues. To substantiate the claim, the petitioner was examined herself as P.W.1 and also examined Dr. L. Ramulu as P.W.2 and got marked Exs.A1 to A9. Exs.C1 and C2 and Ex.X1 were also marked. On behalf of the respondents, no oral or documentary evidence was adduced.

7. The Tribunal, after considering the evidence on record, held that the accident occurred due to rash and negligent driving of the driver of RTC bus and awarded compensation of Rs.27,786/- with interest at 9% per annum from the date of the petition till the date of realisation. Dissatisfied with the compensation awarded by the Tribunal, the present appeal is preferred.

8. Learned counsel for the appellant argued that though the petitioner sustained grievous injury and took treatment in various hospitals, the Tribunal awarded meagre amount of compensation. He further argued that the Tribunal has not awarded compensation

towards transport charges, extra nourishment, attendant charges and loss of earnings and prayed the Court to award compensation under those heads.

9. On the other hand, learned Standing Counsel for the respondents Corporation argued that the Tribunal awarded just and reasonable compensation and there is no need to interfere with the same and prayed to dismiss the appeal.

10. Having regard to the submissions made by the learned counsel for both the parties, the points that arise for consideration are:

1. Whether the compensation awarded by the Tribunal is just and reasonable?
2. Whether the appellant is entitled for enhancement of compensation?

11. **Points 1 and 2:**

A perusal of the evidence of P.W.1 shows that on 04.04.1999 at about 5.30 PM., while she was sitting on the platform of the bus stand, Banswada, one RTC bus came from Gowraram-Gandipet side, driven by its driver in a rash and negligent manner and at high speed, dashed against her, due to which, she fell down and front tyre of the bus ran over her right leg resulting in fracture injury. To prove the said accident, P.W.1 filed Exs.A1 and A2, the certified copies of FIR and charge sheet. The respondents did not adduce any contradictory evidence by examining the driver or conductor of the RTC bus.

12. A perusal of the evidence of P.W.1 shows that when the bus dashed her, she fell down and the front tyre of the bus ran over her

right leg resulting fracture injury. She also received injuries to her left leg and back side of her head. Immediately, she was shifted to the Government Hospital, Banswada and thereafter, she took treatment in NIMS Hospital, Hyderabad. Ex.A3 is the wound certificate, Ex.A4 is the discharge summary. A perusal of Exs.A3 and A4 shows that the petitioner received lacerated injury on the right ankle anteriorly 3"x1"x1/2" and there is a fracture of lower third of right tibia, which is grievous in nature. Ex.A4 also clearly shows that P.W.1 sustained fracture injury to her right ankle. Considering the nature of injuries, the Tribunal awarded a sum of Rs.20,000/-towards disability, Rs.5,000/-towards pain and suffering and Rs.2,786/- towards medical bills based on Ex.A6 medical bills.

13. As per the evidence of P.W.2-doctor, P.W.1 was admitted in the Government Headquarters Hospital, Nizamabad. He stated that the petitioner sustained grievous injuries and she took treatment in the Government Hospital. Therefore, considering the nature of injuries, the Tribunal has rightly awarded compensation for the disability sustained by her, for pain and suffering and for medical expenses. However, the Tribunal has not awarded any compensation under the heads of transportation, extra nourishment, attendant charges and loss of earnings, as rightly contended by the learned counsel for the petitioner. Learned Standing Counsel for the respondents' Corporation also conceded this aspect. Therefore, taking into consideration the nature of injury sustained by the petitioner, an amount of Rs.2,000/- towards transportation, Rs.3,000/-towards extra nourishment and Rs.2,000/-towards attendant charges, is awarded. Though the petitioner claimed that she used to earn Rs.10,000/- per month by

running kirana shop and doing agriculture, there is no evidence on record to prove her oral testimony. Therefore, even if the petitioner was doing any manual work like Coolie, she will get a sum of Rs.100/-per day. Therefore, considering all these aspects, an amount of Rs.3,000/- is awarded towards loss of earnings. Thus, in total, a sum of Rs.10,000/- is awarded apart from the compensation awarded by the Tribunal.

14. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs.27,786/- to Rs.37,786/-. For the enhanced amount of Rs.10,000/-, interest at 7.5% per annum is awarded from the date of the appeal till realisation in view of the judgment of the Hon'ble Supreme Court in **Sarla Verma Vs. Delhi Transport Corporation**^[1] from the date of appeal till the date of realisation. The points are answered accordingly.

15. In the result, the appeal is partly allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

ANIS, J

17th July, 2015
sj

[\[1\]](#) (2009)6 SCC 121