

HON'BLE SRI JUSTICE A. SHANKAR

NARAYANA

M.A.C.M.A. No.40 OF 2007

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JUDGMENT:

Andhra Pradesh State Road Transport Corporation preferred the instant appeal, aggrieved of the order, dated 04-10-2006, in O.P. No.778 of 2005, passed by the learned Chairman, Motor Accidents Claims Tribunal – cum – II Additional District Judge, Warangal (for short 'the Tribunal').

2. By the aforementioned order, the Tribunal has granted a sum of Rs.2,00,000/-(Rupees two lakhs only) as compensation as against the claim for Rs.3,00,000/-(Rupees three lakhs only) laid by the petitioner under Section 166 (I)(a) of the Motor Vehicles Act, 1988 (for short 'the Act') and Rule 455 of the Andhra Pradesh Motor Vehicles Rules, 1989 (for short 'the Rules').

3. The appellant herein - Andhra Pradesh State Road Transport Corporation (APSRTC) is the respondent in the O.P. before the Tribunal, while respondent is the petitioner.

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

5. The facts, in brief, are that on 07-08-2004, the petitioner went to Kommulavancha and surrounding thandas on his bicycle for collection of dues of Kirana shop of one Bollam Sammaiah under whom he was employed, and while he was returning on the bicycle at about 7.00 P.M., near Yerrachakru Thanda, H/o

Kommulavancha, an RTC bus bearing registration No. AP 10Z 3359 coming from Narsimhulapet and proceeding towards Thorrur, driven by its driver at high speed in a rash and negligent manner dashed the bicycle of petitioner, due to which, he sustained bleeding injuries to his head and other parts of his person. The petitioner claims that he was 24 years old on the date of accident and working as Gumasta (Clerk), drawing a salary of Rs.2,000/- per month and he lost vision of his right eye. On account of the injuries sustained by him to his head and fractures to his right leg and right eye, he, therefore, sought to grant a sum of Rs.3,00,000/- as compensation against the respondent.

6. Respondent - Corporation filed counter denying the rash and negligent driving attributed to the driver of bus. While raising certain other pleas, it contended that, in fact, the petitioner was negligent due to which the accident has occurred.

7. Based on the above pleadings, the Tribunal framed three issues about fixing responsibility for the accident. During inquiry, on behalf of the petitioner, he has examined himself as PW.1, besides examining one B. Sammaiah as PW.2 and Dr.Narasimhulu and Dr.T. Lakshmi Rama Devi as PWs.3 and 4 and marked Exs.A-1 to A-11. On behalf of the respondent, except the driver of RTC bus at the relevant time, by name K. Koteswar, as RW.1, no other witnesses were examined and no documents were filed. The petitioner got the case sheet summoned and marked as Ex.C-1.

8. The Tribunal, on issue No.1, on appraisal of evidence let in by the petitioner through himself as PW.1 supported by Exs.A-1 and A-3, which are copy of first information report and charge sheet, tendered a finding holding that due to rash and negligent

driving of the driver of bus, the accident has occurred by discarding the version projected by RW.1 in his evidence.

9. On issue No.2, the Tribunal placing reliance on the evidence of doctors, who treated the petitioner and examined as PWs.3 and 4, and the description of injuries mentioned in Ex.A-2 – injury certificate and Ex.A-4 – C.T. scan report, recorded a finding that the petitioner lost his right eye vision and, therefore, granted a sum of Rs.52,000/- towards pain and suffering which includes Rs.20,000/- towards loss of vision of right eye, Rs.15,000/- for fracture of left frontal bone, Rs.15,000/- for the fracture of right temporal bone and Rs.2,000/- towards an abrasion of right hand; further granting Rs.1,00,000/- towards permanent disability for the complete loss of right eye vision; Rs.40,000/- towards medical expenses, extra nourishment and attendant charges; Rs.4,500/- towards loss of earnings @ Rs.1,500/- per month for three months; and Rs.3,500/- towards transport charges, making a total sum of Rs.2,00,000/- and, accordingly, answered issue No.2. The Tribunal has granted interest at 6% per annum.

10. The respondent – Corporation having got aggrieved of the said order preferred the instant appeal, contending in the grounds of appeal that the Tribunal, somehow, did not properly appreciate the evidence of RW.1, driver of RTC bus at the relevant time, and ought not to have relied on Exs.A-1 and A-3, as not conclusive proof to hold that the driver was negligent and ought to have appreciated that the injured himself slipped from his bicycle while proceeding in rain water. It is also stated that the Tribunal was not right in awarding Rs.52,000/- under the head of pain and suffering and in granting Rs.1,00,000/- under the head of

permanent disability and, therefore, sought to set aside the order and decree passed by the Tribunal.

11. Heard Sri B. Mayur Reddy, learned Standing Counsel for the appellant – Corporation. No representation for the respondent.

12. Perused the order and the evidence let in by the petitioner, both, oral and documentary, for substantiating the stand he has taken and the claim he has made, and also the evidence of RW.1.

13. As seen from the grounds of appeal and as argued by the learned Standing Counsel for the appellant concerning the finding recorded on issue No.1, no concrete challenge is made. Even otherwise, in view of the contents of Exs.A-1 and A-3 would support the evidence of PW.1. The finding recorded by the Tribunal on issue No.1 holding it against the appellant cannot be faulted.

14. Concerning the compensation determined by the Tribunal, the description of injuries as can be seen from Ex.A-2 and as spoken to by PW.3 are; i) deep lacerated wound on left frontal region measuring 5 x 3 x 2 cms.; ii) an abrasion on right hand and right knee measuring 3 x 2 cms.; and iii) contusion and swelling of both eyes. It is to be found from the evidence of PW.3, the CT scan of head and brain reflects that there was left frontal hemorrhagic contusion associated with SAH with pneumocephalus and even there was fracture of left frontal bone, roof of left orbit and right temporal bone. Even, the evidence of PW.4, who was Consultant Ophthalmologist at Jaya Hospital, Hanamkonda

examined on commission, would clearly reflect that the petitioner lost his right eye vision, despite the fact that PW.4 administered injections suspecting right eye traumatic optic neuropathy, but there was no improvement and there was loss of total vision of right eye. It is forthcoming from the evidence of PW.4 that optic nerve of the petitioner was dried and there is no possibility of regaining vision even. The very fact that the petitioner was 24 years old and has to bear with the loss of vision of right eye through out his life which accounts for permanent disability at his prime youth, certainly, entitles him for just and adequate compensation.

15. Viewed in that angle, certainly, the amount of Rs.52,000/- granted by the Tribunal towards pain and suffering for the loss of right eye vision as the injuries sustained by the petitioner were fractures as shown in Ex.A-2 and, therefore, the same is not disturbed. Even, granting the amount of Rs.1,00,000/- towards permanent disability for the complete loss of right eye vision cannot be reduced, as in fact the petitioner lost three dimensional vision on account of loss of complete right eye vision. The amount of Rs.40,000/- towards medical expenses, extra nourishment and attendant charges granted by the Tribunal, basing on the evidence of PW.4 and medical bills, also cannot be interfered with, so also the amount of Rs.4,500/- towards loss of earnings for three months and Rs.3,500/- towards transport charges. Thus, the amount of Rs.2,00,000/- granted by the Tribunal is just and reasonable and cannot be construed as excessive or arbitrary as sought to be viewed by the appellant herein when compared with the loss of vision of right eye which accounts for permanent disability at the age of 24 years. Hence,

there is no merit in the appeal and, consequently, the appeal is liable to be dismissed.

16. In the result, the appeal is dismissed. There shall be no order as to costs.

17. As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

February 18, 2015.

Mgr