

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.2493 of 2004

JUDGMENT:

The Andhra Pradesh State Road Transport Corporation, represented by its Regional Manager, Kurnool, Kurnool District (for short, 'the Corporation'), who is the respondent in M.V.O.P.No.893 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Kurnool (for short, 'the Tribunal'), is the present appellant. Aggrieved by the order dated 28.11.2003, whereby and whereunder, a sum of Rs.80,000/- was granted with interest at 9% per annum thereon, as against the claim of Rs.1,50,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), for the injuries sustained by the petitioner in a road accident, the instant appeal is preferred requesting to set aside or modify the said order on the ground that the award of compensation was on higher side.

2. Respondent herein is the petitioner, while the appellant herein, who is the owner of the RTC Bus bearing registration No.AP 10Z 6821, was the respondent in the original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. Facts in brief are that the petitioner was the driver-cum-owner of the auto bearing registration No.AP 21T 7458. On 19.03.2001 at about 2-50 p.m., while he was taking his auto on the extreme left side of the road near Military Colony, an RTC bus bearing registration No.AP 10Z 6821 driven by its driver in a rash and negligent manner dashed the auto, due to which, the petitioner and one of the passengers, who has also preferred a claim petition in

M.V.O.P.No.633 of 2001, sustained injuries and the auto was completely damaged. The petitioner, therefore, sought a sum of Rs.1,50,000/- contending that he underwent surgical interventions and spent Rs.15,000/- towards treatment and became permanently disabled and he was earning Rs.150/- per day on his profession earlier to the date of accident.

5. Respondent-Corporation opposed the claim, and by raising various pleas, required the petitioner to prove them affirmatively.

6. Basing on the said pleadings, the Tribunal framed two issues about the responsibility for the accident. The Tribunal taken up both the claim petitions together and rendered a common order on 28.11.2003. Evidence was let in, in M.V.O.P.No.633 of 2001 treating it as leading claim petition, in which the petitioner in M.V.O.P.No.893 of 2002 examined himself as P.W.3. Dr. Venkateswarlu from Government General Hospital, Kurnool, was examined as P.W.4 to prove the injuries sustained by the petitioner. During enquiry, on behalf of the petitioners in both the petitions, P.Ws.1 to 4 were examined and Exs.A.1 to A.26 were marked; and on behalf of the respondent-Corporation, the driver of the bus was examined as R.W.1 and no documents were marked.

7. The Tribunal, on appraisal of evidence, both, oral and documentary, let in by the petitioner, held issue No.1 in favour of the petitioner discarding the evidence of R.W.1 and also pointing out that R.W.1 was charge sheeted for the offences punishable under Sections 337 and 338 I.P.C., besides the evidence of P.Ws.1 and 3, proving positively the rash and negligent driving of R.W.1. On issue No.2, the Tribunal, having found two grievous injuries and three simple injuries, for each grievous injury, granted Rs.25,000/- and for each simple injury, granted Rs.1,500/-, but however, rejected the permanent disability spoken to by P.W.4 on the ground that the said assertion was

not supported by any documentary evidence. Besides the said amount for the injuries, the Tribunal also granted Rs.8,000/- towards medical and hospital expenses, Rs.5,000/- towards pain and suffering and Rs.10,000/- for damages to the auto, and, thus, granted a total sum of Rs.80,000/-, though, arrived at Rs.77,500/-.

8. It is the aforesaid order which is under challenge in the instant appeal by the respondent-Corporation contending in the grounds of appeal that the Tribunal did not properly appreciate the evidence on record. It is also stated that the Tribunal unjustly discarded the evidence of R.W.1. It is also stated that though, no independent witnesses were examined to explain properly the manner of accident, still, the Tribunal tendered finding on issue No.1 in favour of the petitioner, and, therefore, sought to set aside the award and decree.

9. Heard Sri A.Rama Rao, learned counsel for the appellant-Corporation. Despite service of notice on the respondent-claimant, none appears for him.

10. Perused the order. It is the submission of the learned counsel for the appellant-Corporation that without there being convincing evidence on record, the Tribunal, somehow, granted Rs.25,000/- towards each grievous injury, which is on higher side and even granted the amount under the medical bills, though, there is no proper proof. It is also submitted that the amount awarded under various heads is excessive.

11. A perusal of the evidence of P.Ws.3 and 4 would show that the petitioner did really suffer two grievous injuries, when kept in view, the nature of injuries and the surgical interventions and the pain and suffering that he had undergone, the amount of Rs.25,000/- granted towards each injury cannot be faulted. So far as simple injuries are concerned, even the Tribunal granted less than reasonable amount at

Rs.1,500/- each. Concerning medical and hospital expenses, the Tribunal granted Rs.8,000/- based on the documentary evidence proved through P.W.4. Even the amount of Rs.5,000/- granted by the Tribunal towards pain and suffering appears to be on lower side. The amount of Rs.10,000/- granted by the Tribunal towards damage of the auto is based on Ex.A.25 report of the Surveyor. Therefore, viewed from any angle, there is absolutely nothing to find fault with the finding recorded by the Tribunal either in arriving at the rash and negligent driving attributed to R.W.1 or in awarding compensation of Rs.80,000/- to the petitioner herein. However, the interest granted by the Tribunal at 9% per annum is reduced to 7.5% per annum on the entire amount from the date of petition till realisation, as per the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**^[1].

12. Accordingly, the instant appeal is allowed in part by reducing the rate of interest alone, as indicated above, and confirming the impugned order and decree in all other respects. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

19th June, 2015

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^[1] 2013 ACJ 1403