

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1971 of 2005

Date: 08-12-2015

Between:

Angadala Venkateswararao

.... Appellant

AND

V. Nageswararao and another

.... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1971 of 2005

ORDER:

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The claimant in MVOP.No.274 of 2001 on the file of Motor Accident Claims Tribunal-cum-Principal District Judge, West Godavari at Eluru is the appellant herein. He filed the O.P. claiming compensation of Rs.1,00,000/- for the injuries sustained by him in a motor accident that occurred on 31-01-2001 at about 8.15 A.M. near burial ground, Jangareddigudem road, Tangellamudi, Eluru due to rash and negligent driving of the RTC bus bearing No.AP-10-Z-5211 by its driver. He was aged about 23 years at the time of accident and was a milk vendor. The Tribunal framed the following issues.

- 1) Whether the accident occurred due to rash and negligent driving of the APSRTC bus bearing No.AP10-Z-5211 driven by its driver first respondent?
- 2) Whether the petitioner is entitled to claim any compensation? If so, to what amount and against which of the respondents?

3) To what relief?

With regard to the first issue, the Tribunal came to the conclusion that the accident occurred due to rash negligent driving of the driver of the RTC bus.

With regard to the compensation, the claimant examined himself as PW.1 and examined a doctor as PW.2. As per Ex.A.2-wound certificate, both bones of leg were fractured and Ex.A.7-certificate issued by the Medical Board. I have carefully perused Ex.A.7 where the percentage of the disability was altered by Orthopaedic surgeon without any endorsement of the Chairman of the Medical Board. The original percentage of the disability appears to be 20%. However, the Tribunal without giving any finding with regard to the income and the percentage of disability awarded an amount of Rs.50,000/- by its award dated 29-06-2004 with subsequent interest at 9% p.a. from the date of petition till the date of realization. Seeking enhancement of the said compensation, the present appeal is filed.

The petitioner was stated to be a milk vendor at the time of accident and his claim was that he was earning Rs.3,000/- as milk vendor. Though there was no evidence with regard to the income, the income claimed by him cannot be disbelieved and the same can be taken as Rs.3,000/- even after adding the enhancement of 30% decided by the Supreme Court, and hence, the income of the injured can be taken safely as Rs.3,000/- per month. If Rs.3,000/- monthly income was taken and the percentage of 20% disability was applied to the said age of the injured, the appropriate multiplier as per **Sarla Verma v. Delhi Transport Corporation** (2009 (6) SCC 121) is 18. In view of the same, the compensation

for permanent partial disability would come to Rs.1,29,600/- (3000/-X12X18X20%). The petitioner must have undergone some pain and suffering for which he was entitled for an amount of Rs.20,000/-. The petitioner filed Ex.A.6 bunch of medical bills for an amount of Rs.5,080/- and the said amount may be granted. The petitioner must have incurred some amount for transportation to hospital, attendant charges and extra nourishment, for which an amount of Rs.5,000/- can be awarded. Immediately after the accident, the petitioner was taken to the Government Headquarters Hospital, Eluru for treatment and later on shifted to Helapuri Poly Clinic, Eluru. In the circumstances, an amount of Rs.20,000/- can be awarded for the injuries sustained by him.

In view of the above, this appeal is allowed enhancing the compensation of Rs.60,000/- awarded by the Tribunal by the award dated 29-06-2004 to Rs.1,79,680/-. The enhanced amount of compensation shall carry the same rate of interest at 9% p.a. from the date of petition till the date of realisation and the enhanced amount shall be paid to the petitioner only after paying the deficit court fee. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 08-12-2015

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