

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Miscellaneous Appeal No.3121 of 2003

Date: 16-11-2015

Between:

Valisetti @ Bekkam Vijaya

.... Appellant

AND

APSRTC., represented by its Manager,
Nalgonda

.... Respondent

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Miscellaneous Appeal No.3121 of 2003

ORDER:

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This appeal is preferred by the claimant in O.P.No.782 of 2000 on the file of Motor Accident Claims Tribunal-cum-Principal District Judge, Nalgonda. O.P.No.782 of 2000 was filed by the appellant herein as a claimant before the Tribunal with the allegation that when she, along with her children were travelling in RTC bus bearing No. AP-10-Z-2229 on 20-03-1999 from Dilsukhnagar to Nalgonda, due to rash and negligent driving of the driver of the vehicle, she fell down in the bus itself and received grievous injury to her back. She was admitted in the Government Hospital, Nalgonda and a surgery was performed on 23-03-1999 and she was discharged on 21-04-1999. The claimant was working as a Typist in District Educational Office and claimed compensation of Rs.19,00,000/-. The Tribunal awarded an amount of Rs.5,00,000/- by its award dated 16-11-2002 together with interest thereon at 9% p.a. from the date of petition till the date of deposit.

Now, CMAMP.No.1804 of 2015 was filed stating that she availed extraordinary leave from the date of accident till 03-10-2004 and though she joined duty in November 2004, she could not perform her duties due to her medical condition, which resulted in loss of sensation below the waist to foot and lost control over her bladder and bowel and life long physiotherapy and treatment was needed. She was looked after by her younger daughter till her marriage in 2002 and thereafter, she appointed a full time attendant incurring heavy expenses. Though her services were regularized on compassionate and sympathetic grounds, she would have got promotion as Senior Assistant in 2000 itself. Though she was entitled to get promotion as Senior Assistant as well as Superintendent, she could not avail those benefits and ultimately, she was retired from service on 30-06-2012. She continued to be in bed even after passing the award by the Tribunal. In view of the same, she filed the application seeking to set aside the order passed by the Tribunal and give her an opportunity to adduce evidence with regard to her continued medical condition.

The award passed by the Tribunal in O.P.No.782 of 2000 dated 16-11-2002 disclosed that the petitioner suffered permanent disability as could be seen from the disability certificate dated 01-05-2000 issued by the Medical Board, Nalgonda under Ex.A.5, but the Tribunal has not awarded any compensation for the continued medical treatment after discharge from the hospital. She was awarded an amount of Rs.75,000/- towards disability, Rs.1,00,000/- towards loss of past earnings and an amount of Rs.1,50,000/- towards future earnings. An amount of Rs.1,50,000/- was awarded as compensation towards medical expenses and attendant charges. But, the Tribunal has to take into consideration the over all facts and circumstances of the case keeping in view the

disability suffered by the claimant and award just compensation. Since the compensation awarded was on the basis of treatment taken by her as on the date of filing of the petition and in view of the present application in CMAMP.No.1804 of 2015, the matter is remanded to the Motor Accident Claims Tribunal-cum-Principal District Judge, Nalgonda for passing an award of just compensation in the facts and circumstances of the case by allowing the petitioner to adduce evidence in this regard. Any amount paid by the respondents would be subject to the orders to be passed by the Tribunal in the present case. In view of the remand, the appellant need not refund any amount, but the remand made is for the purpose of considering enhancement of compensation based on the evidence to be adduced by the claimant.

Accordingly, the appeal is allowed and the matter is remanded to the Motor Accident Claims Tribunal-cum-Principal District Judge, Nalgonda, in view of continued disability suffered by the appellant-claimant. It is needless to mention that the Tribunal shall dispose of O.P. as expeditiously as possible, but not later than six months from the date of receipt of the order.

A. RAMALINGESWARA RAO, J

Date: 16-11-2015

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