

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

M.A.C.M.A.No.3067 of 2016

DATED:- 01-12-2016

Between:

The Royal Sundaram Alliance Insurance Co.Ltd.,
Rep.by its Regional Manager,
Hyderabad

..... APPELLANT

AND

B.Ramulu and another

.....RESPONDENTS

COUNSEL FOR THE APPELLANT : Sri A.RAMAKRISHNA REDDY

COUNSEL FOR RESPONDENT : Sri C.MOHAN PRAKASH

THE COURT MADE THE FOLLOWING:



THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

M.A.C.M.A.No.3067 of 2016

JUDGMENT: (per Hon'ble Sri Justice M.S.K.Jaiswal)

The appellant is the second respondent/Insurance Company in O.P.No.836 of 2011 on the file of the Motor Accident Claims Tribunal-cum-XIV Additional Chief Judge (Fast Tract Court), City Civil Court, Hyderabad. The first respondent is the injured who filed the petition claiming compensation of Rs.30 lakhs for the injuries sustained by him in a road traffic accident that took place on 03.05.2006 at 11.00 p.m., involving the motorcycle bearing No.AP 11 Q AO T/R 8232 being driven by him and the lorry bearing registration No.KA 05 D 8539 which was owned by the second respondent herein and insured with the appellant. As against the claim of Rs.30 lakhs, the Tribunal awarded a sum of Rs.26,86,538 together with costs and interest thereon at 7.5% per annum.

2. Aggrieved by the said award, the appellant preferred the present appeal mainly questioning the quantum of compensation granted contending that the same is excessive and exorbitant. According to the appellant, the Tribunal erred in taking the multiplier and multiplicand at higher rates and determining the compensation without allowing the reasonable deductions. The appellant however does not dispute the other aspects in the case such as the crime vehicle being insured with it and the accident having taken place as claimed by the injured and also the fact that the injured suffered permanent disability due to the accident.

3. According to respondent No.1/petitioner, in the accident he sustained serious head injuries and in view of the fact that he has become

permanently disabled, lost memory, became mentally unfit, he was removed from the service. Before the accident, respondent No.1/petitioner was working as a Police Constable attached to L.B.Nagar Police Station. After the accident, he was shifted to Kamineni Hospital where he incurred huge expenditure of nearly Rs.6 lakhs for treatment, out of which Rs.4 lakhs was paid by the Police Department and the remaining expenditure was met by him.

4. In view of the physical and mental disability suffered by respondent No.1/petitioner, his wife gave evidence as PW.1 and also examined PWs.2 to 8 and produced Exs.A.1 to A.17 and Exs.X.1 to X.12. The second respondent/owner of the crime vehicle remained *ex parte*. No oral and documentary evidence was produced by the appellant/Insurance Company.

5. The oral and documentary evidence that is produced by the claimant established beyond doubt that in the accident, due to the head injuries he completely became physically and mentally disabled and he was crippled beyond comprehension. He lost his job and the Department has provided compassionate appointment to his son. Respondent No.1/petitioner was granted pension of about Rs.7,000/- per month. At the time of the accident, he was drawing a gross salary of Rs.11,866/-. Voluminous evidence was also produced about the expenditure incurred by respondent No.1/petitioner for the treatment and also the amounts required for future treatment.

6. As already noticed, the main grievance of the Insurance Company is about the quantum of compensation awarded by the Tribunal. A perusal of the oral and documentary evidence on record shows that the

award of the Tribunal is based on legally permissible evidence and the amounts have been determined in accordance with the settled principles of law. The Tribunal has taken into consideration the net salary of respondent No.1/petitioner at Rs.11,786/- and since he was aged more than 41 years, 30% was added towards future prospects and determined the annual income at Rs.1,83,852/-. After deducting 10% towards income tax, the net loss was determined at Rs.1,65,467/-. The said amount was multiplied by '14' following the decision of the Supreme Court in SARALA VERMA AND TOHERS v. DELHI TRANSPORT CORPORATION AND ANOTHER¹ and total loss was computed at Rs.23,16,538/-. The Tribunal awarded Rs.65,000/- towards medical expenses and extra nourishment; 1,50,000/- towards pain and suffering which respondent No.1/petitioner will undergo through out his life; Rs.1,50,000/- towards loss of amenities, happiness and enjoyment in life; and another Rs.5,000/- towards transportation charges. After taking into consideration the above sums, the Tribunal determined the compensation at Rs.26,86,538/-.

7. In view of the fact that in the accident, respondent No.1/petitioner sustained grievous injuries and became permanently disabled, both physically and mentally, and that he was just aged about 41 years and was working as a Police Constable in the Police Department, the amount of compensation determined by the Tribunal cannot at all be said to be excessive, exorbitant or exaggerated. The Tribunal has taken into consideration the well settled legal propositions in determining the compensation and therefore the same does not warrant any inference. There are no merits in the appeal.

¹ 2009 ACJ 1298

8. In the result, the appeal is dismissed at the stage of admission.

No order as to costs.

As a sequel to the dismissal of the appeal, MACMAMP.No.5444 of 2016 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY,J

M.S.K.JAI SWAL,J

Date: 01.12.2016
Smr

