

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.Nos.2381, 2620 & 2457 OF 2005

COMMON JUDGMENT:

All these three appeals are being disposed of by this common judgment, as they arise out of a same accident.

2. M.A.C.M.A.Nos.2381, 2620 and 2457 of 2005 were filed against the award in O.P.Nos.657, 658 and 693 of 2001 dated 12.5.2005 seeking enhancement of the compensation.

3. The above three original petitions were filed before the VI Additional District Judge (Fast Track Court), East Godavari District, Rajahmundry claiming compensation by the injured for the injuries sustained by them in a motor accident that occurred on 13.10.1997 at about 10 a.m. about 8 kms. away from Kolar. It was alleged in the petitions that all the three petitioners along with their family members and some others were proceeding in a Jeep bearing No.AP 03 V 7299 from Pungunooru to Bangalore and when they were at about 8 kms. away from Kolar, one lorry bearing No.KA 03 7696 came from opposite direction and turned to the right side and dashed the jeep. In the said accident, some of the occupants of the jeep died and the petitioners herein sustained injuries. They were immediately taken to Shri Devaraj Urs Hospital at Kolar initially and later on, they were brought to Rajahmundry where they underwent treatment at Dr.G.Aravindam's Hospital.

4. The Tribunal conducted a joint trial in all the petitions.

5. The Tribunal framed issues with regard to the involvement of the lorry in the accident.

6. Before the Tribunal, P.Ws.1 to 5 were examined on behalf of the claimants and exhibits A-1 to A-19 were marked. On behalf of the respondents, R.Ws.1 and 2 were examined and Exs.B-1 to B-9 were marked.

7. On the basis of the evidence, the Tribunal held that that the driver and owner of the crime vehicle are jointly and severally liable to pay 50% of the compensation and the remaining 50% compensation shall be paid by the driver, owner and the insurance company of the jeep. Accordingly, the award was passed on 12.5.2005 awarding the above amounts.

8. With regard to the injured in O.P.No.657 of 2001, it was noticed that six injuries were sustained by the injured and Ex.A-3 – wound certificate disclosed the same. P.W.4, who was the Doctor in G.Aravindam's Hospital, Rajahmundry, did not produce any case summary, but produced Ex.A-2 – X-rays, which were taken on 20.9.2004 three years after the accident. He issued Ex.A-13 – disability certificate. The injuries under Ex.A-3 certificate showed that there are five simple injuries and one grievous injury. The grievous injury related to laceration wound over right shoulder joint 2 x 2 cms.

9. On consideration of the evidence, the Tribunal awarded an amount of Rs.5,000/- towards transportation to hospital, Rs.3,000/- towards extra nourishment, Rs.3,000/- towards attendant charges, Rs.10,000/- towards medical expenditure,

Rs.4,500/- towards loss of earnings and Rs.22,500/- for pain, suffering and mental agony. In all, it awarded an amount of Rs.48,000/- insofar as the petitioner in O.P.No.657 of 2001 is concerned. I consider the same to be reasonable and just in respect of five simple injuries and one grievous injury sustained by the petitioner, who was aged about 60 years on the date of the accident.

10. Insofar as the petitioner in O.P.No.658 of 2001 is concerned, she was a student on the date of the accident. She sustained two injuries and one of the injuries is grievous in nature. The said injury related to the fracture of nasal bone, which required surgery. It was also noticed that due to hospitalisation, the petitioner abstained from studies for a period of three months and the Tribunal, accordingly, awarded an amount of Rs.2,000/- towards transportation to hospital, Rs.2,000/- towards attendant charges, Rs.2,000/- towards extra nourishment, Rs.10,000/- towards medical expenditure, Rs.4,500/- for pain, suffering and mental agony for 3 months period, Rs.16,500/- for the pain, suffering and mental agony for the injuries sustained by her, Rs.25,000/- towards cost of surgery and Rs.20,000/- towards difficulties faced by the petitioner. Thus, in all, an amount of Rs.82,000/- was awarded. I consider the said amount also to be just and proper in the circumstances of the case.

11. Regarding the injuries sustained by the petitioner in O.P.No.693 of 2001, who was also a student, Ex.A-10 – wound certificate showed that there was a laceration of scalp and hemorrhage on the right side of the frontal region nasal,

bleeding present and it was considered that it was a simple injury. The X-ray revealed no fracture. P.W.4 himself admitted that the petitioner was not suffering from any orthopaedic problem. P.W.5, who is an Orthopaedic Surgeon, stated that he was not a competent person to say that the petitioner was suffering with intellectual functions like memory, behaviour and the chronicle headache due to the injuries sustained by him in the accident. In view of the said facts and after taking into consideration the injuries sustained by the petitioner, the petitioner was awarded an amount of Rs.2,000/- towards transportation to hospital, Rs.2,000/- towards extra nourishment, Rs.2,000/- for attendant charges, Rs.5,000/- towards medical expenditure and Rs.3,000/- for pain, suffering and mental agony for the injuries sustained by him. Thus, an amount of Rs.14,000/- was awarded, which I feel just and proper in the facts and circumstances of the case. Hence, I am of the opinion that the petitioner do not need any enhancement.

12. Accordingly, all the appeals are dismissed. There shall be no order as to costs.

13. Miscellaneous Petitions pending, if any, in these appeals shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

Date: 25.1.2016

AMD

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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