

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.677 of 2010

JUDGMENT:

The respondent-APSRTC maintained the appeal against the claimant impugning the award of the Tribunal dated 30.12.2009 in O.P.No.198 of 2008 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge, Tirupati, of the claim maintained under Section 166 of the Motor Vehicles Act for a compensation of Rs.5,14,523/- for the injuries sustained in the bus accident dated 06.05.2007 at about 03.00 PM in front of RBGH bus stop Tirumala, the Tribunal awarded a sum of Rs.3,09,400/- with interest @ 6% per annum.

It is the contention of the learned counsel for RTC that the Tribunal gravely erred in appreciation of the evidence and there is negligence on the part of the injured and there is no fault of the bus driver and there is no permanent disability and there is no loss of earning capacity and several amounts awarded are without any basis including Rs.1,75,400/- towards medical expenses and transport charges and treatment, hence to reduce the compensation by fixing contributory negligence to a reasonable sum by allowing the appeal. Whereas it is the submission of the learned counsel for the claimant that the award of the Tribunal holds good and for this Court while sitting in appeal there is nothing to interfere.

Heard and perused the material on record.

The averments of the claimant are that he is working as a mason in TTD Engineering Department at Tirumala, and on 06.05.2007 when he was waiting at the bus stop at Tirumala, the

bus of the RTC in a rash and negligent manner dashed the injured, due to which he fell down and his left foot was crushed under the left front tyre of the bus and he was taken to Aswini Hospital, Tirumala and shifted to SVRRGG Hospital, Tirupati and on advise shifted to Apollo Hospital, Chennai, where he underwent treatment for two weeks. He deposed in support of the same and cause examined PW.2 Dr. Hari Babu and placed reliance on Ex.A5- disability certificate showing 25% permanent disability from the crush injury to the left foot with loss of great toe with mal-union of left foot and unable to rest on left foot. There is nothing to show that he was removed from service or loss of earnings but for any promotional prospects. So far as 230 days medical leave availed concerned, it is the observation even by the Tribunal of there is no question of encashment of medical leave in the service of the employee, however as Tribunal on that count awarded Rs.44,500/- for partial loss of income and but for the evidence of PW.2 in relation to the Ex.A7 medical bills 7 in number of Rs.1,10,852/- and there is no proof in relation to the other bills other than Ex.A9-transport bills of the ambulance for Rs.6,900/- particularly in relation to Ex.A8 for Rs.57,658/-.

Having regard to the above what the Tribunal awarded of Rs.3,04,900/- requires to be reduced to Rs.2,50,000/-, however by enhancing the rate of interest from 6% to 7.5% per annum.

With the above observations, the appeal is partly allowed.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 16.12.2016
ska