

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.NO.1511 OF 2005

JUDGMENT:

This appeal is preferred by the appellant-petitioner against the order, dated 11-03-2004 in O.P.No.101 of 2003 on the file of the Chairman, Motor Accident Claims Tribunal-cum- II Additional District Judge, Karimnagar (for short 'the Tribunal) seeking enhancement of compensation.

2. The appellant herein is the petitioner, whereas the respondents herein are the respondents before the Tribunal.

3. For the sake of convenience, the parties herein after will be referred to as they were arrayed before the Tribunal.

4. Petitioner herein, who is the injured minor girl filed the above O.P. claiming compensation of Rs.1,50,000/- for the injuries sustained by her stating that on 11-05-1998 when herself along with her parents and relatives went to Vemulawada in a van bearing No.AP-13-T-5713 to have darshan of Lord and when they were returning on 12-05-1998 at about 6.15 A.M., and when they reached outskirts of Nusthulapur village, the van was stopped at the request of the passengers for water. The occupants of the van got down and the minor girl was standing by the side of the road. In the meanwhile, APSRTC bus bearing No.AP-9Z-8723 of Janagaon Depot came in opposite direction and dashed against the minor girl, as a result of which, she received injuries on her left leg, right eye and right side of the head. She fell unconscious. She was taken to the hospital at Karimnagar and later as her condition was serious, she was referred to M.G.M. Hospital, Warangal. Thereafter, she was shifted to NIMS hospital, where skin grafting was done on 25-05-1998 and ultimately she was discharged on 12-06-1998. Hence, the claim petition.

5. 1st respondent-driver of the lorry remained ex-parte and the 2nd respondent-corporation filed counter denying the averments made in the petition. It was further stated that there was no negligence on the part of 1st respondent and that the accident occurred as the minor girl got confused and fell down on the road.

6. Basing on the above pleadings, the following issues were settled for trial:

1. Whether the accident took place due to rash and negligent driving of the vehicle bearing No.AP-9Z-8723 by its driver?
2. Whether the petitioner is entitled for compensation, if so, to what amount and from whom?
3. To what relief?

7. On behalf of the petitioner, P.Ws. 1 to 3 were examined and Exs.A1 to A7 were got marked. On behalf of the 2nd respondent, R.W.1 was examined, but no documents were marked.

8. The Tribunal after considering the evidence on record, held that the accident was occurred due to rash and negligent driving of the RTC bus by its driver.

9. Regarding injuries sustained by the minor girl, P.W.2 who is a doctor working in Government hospital, Karimnagar, deposed that the minor girl was admitted on 12-05-1998 with a laceration over the right brow and avulsion of skin on right side and lacerated injury on the left little finger. She was ultimately treated on emergency basis and she was referred to Orthopaedic Surgeon. He issued Ex.A3-medical certificate. As per Ex.A4-Medical certificate, the minor girl was admitted in Nizam's Institute of Medical Sciences on 13-05-1998 and was discharged on 12-06-1998. Surgery was performed on her for skin grafting. The Tribunal awarded an amount of Rs.20,000/- under the head of pain and suffering, Rs.2,000/-towards loss of academic year to the girl, Rs.6,000/- towards medical bills, Rs.40,000/- towards loss of future amenities of life. Thus in all, an amount of Rs.68,000/- was awarded to the minor girl. Being not satisfied with the compensation amount, the petitioner filed the present appeal.

10. There is no dispute with regard to the injuries sustained by the minor girl on the date of the accident. But, the Tribunal disbelieved A6-disability certificate showing the disability at 40% permanent and partial. The evidence of P.W.3 who attended on the patient at the time of her admission in NIMS hospital is relevant. He stated that the petitioner was admitted on 13-05-1998 for avulsion of the skin of the right leg with fracture of Tibia. She was operated on 13-05-1998 under Anaesthesia coverage of the wound with muscle flap and skin grafting was done. She was then treated with dressings till 25-05-1998 and second setting of

skin grafting was done to cover residual raw areas in the leg. She was discharged on 12-06-1998. Such patient would be advised at least 6 weeks of rest. The patient came to him for follow up visits and she was advised physiotherapy for her ankle. In the cross-examination, he opined that if the deformity is corrected then the patient function would be better. There is no dispute with regard to the injuries and treatment given to the injured. Though Ex.A5 shows that an amount of Rs.25,000/- for surgery, Rs.50,000/- for hospital expenses and medicines were asked to be given to the patient, no such receipt was filed. However, in view of the surgery and prolonged stay for a period of one month, the said amount cannot be disbelieved and hence, she is entitled to an amount of Rs.75,000/- towards medical expenses and hospitalisation. The said amount is awarded in the place of Rs.6,000/- awarded by the Tribunal. An amount of Rs.20,000/- awarded by the Tribunal towards pain and suffering appears to be proper. She is a resident of Karimnagar District and somebody must have attended on her during the period of treatment. In view of the same, an amount of Rs.10,000/- can be awarded for attendant charges. An amount of Rs.40,000/- was awarded towards loss of future amenities to life and the said amount is justified. An amount of Rs.2,000/- was awarded towards loss of academic year and it is enhanced to Rs.5,000/-. Thus, in all, an amount of Rs.1,50,000/- is awarded in place of Rs.68,000/- awarded by the Tribunal. The enhanced compensation amount carry interest at 9% p.a., from the date of petition till the date of realisation.

11. Accordingly, the appeal is partly allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 21-01-2016

Hsd