

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL MISCELLANEOUS APPEAL No.2317 of 2004

JUDGMENT:

This appeal is preferred by the injured who is the claimant in O.P.No.206 of 1997 on the file of the Motor Vehicles Accidents Claims Tribunal-cum-I Additional District Judge at Karimnagar (for short, Tribunal).

2. The appellant filed the said OP claiming a compensation of Rs.4,00,000/- for the injuries sustained by him in a motor accident that occurred on 01.08.1996. It was alleged in the said OP that on 01.08.1996, while the appellant, along with one Raji Reddy, was traveling in a jeep bearing No.AIM 9669 from Mancherial to go to his village Bheeramrajaiahpalli, and when the jeep was proceeding after crossing Mulkala Village at about 9.15 am., a lorry bearing No.AP025 4455 came in the opposite direction and dashed the jeep, as a result of which, the appellant sustained grievous injuries and became unconscious. The other occupants in the jeep were also sustained injuries and they were shifted to Government Hospital, Mancherial along with the appellant. After giving first aid, they were referred to Government Hospital, Karimnagar, and on the advise of doctors, the appellant was shifted to Nizam's Institute of Medical Sciences, Hyderabad and he was discharged on 09.09.1996 with an advise to come for review. On 12.11.1996, the appellant was again admitted in the hospital and he was on fluids for a period of three months. He was not in a position to move any limb and two persons were attending him. Though he was married, his wife went away and married another person. The owner of the offending vehicle remained *ex parte* and the insurance company contested the case by filing a counter and contended that the driver of the jeep was responsible for the accident and it was plying in violation of the conditions of the permit.

3. On the basis of the pleadings, the Tribunal framed the following issues:

- “1. Whether the accident was caused by the first respondent driver by his rash or negligent driving of the vehicle?
2. Whether the petitioner is entitled to recover compensation? and if so, to what amount and from whom?
3. To what relief?”

4. On behalf of the appellant, P.Ws.1 to 4 were examined and Exs.A.1 to A.117 were marked. Insurance policy was marked with consent as Ex.B.1.

5. The Tribunal, on the basis of the oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No. AP025 4455.

6. The Tribunal noticed that the appellant was working as an agent of Peerless Insurance Company and also supplying milk and the said avocation was supported by Exs.104 and 105. The Tribunal also noticed that the appellant suffered permanent disability at 70% as could be seen from Ex.A.101. The disability of the appellant was supported by oral evidence of P.W.4 who treated him. The Tribunal awarded an amount of Rs.40,746.25 ps., towards medical expenses, Rs.13,500/- towards loss of earnings, Rs.25,000/- towards pain and suffering, Rs.50,000/- towards permanent partial disability, Rs.75,000/- towards loss of earning capacity, Rs.25,000/- towards loss of enjoyment of life and Rs.3,000/- towards transportation charges. Thus, in all, an amount of Rs.2,32,000/- was awarded, by award dated 12.07.2001. Seeking enhance of the said amount, the present appeal is filed.

7. The Tribunal noticed that the appellant was working as an agent of Peerless Insurance Company and was supplying the milk. It also noticed that he was earning Rs.1,500/- per month. As per the recent

decision of the Supreme Court, even in respect of persons having no fixed income, there shall be enhancement of 50% to the income towards future prospects. The appellant was aged about 25 years as on the date of accident and he was married three months prior to the date of accident. The disability is also not in dispute in view of oral and documentary evidence adduced before the Tribunal.

8. In the circumstances, the multiplier method would be appropriate for assessing the compensation. If the monthly income of the appellant is taken as Rs.1,500/-, and it is enhanced by 50%, it comes to Rs.2,250/- per month. If $\frac{1}{3}^{\text{rd}}$ of the same is deducted towards his personal expenses, it will come to Rs.1,500/-. The appropriate multiplier for a person of 25 years age is 18. If the same is applied, the compensation comes to Rs.3,24,000/- i.e., Rs.1,500 X 12 X 18.

Admittedly, the appellant incurred an amount of Rs.40,746.25 ps., towards hospitalization and therefore an amount of Rs.40,000/- can be awarded towards hospitalization. The appellant was in the hospital for a period of 9 months, for which, an amount of Rs.13,500/- can be awarded towards loss of earnings. The Tribunal awarded Rs.3,000/- towards transportation charges and the same need not be disturbed. During the period of hospitalization, somebody must have attended the appellant, for which, an amount of Rs.19,500/- can be awarded towards attendant charges and extra nourishment. Thus, in all, an amount of Rs.4,00,000/- is awarded.

9. Hence, the Award of the Tribunal dated 12.07.2001 in O.P.No.206 of 1997 is modified by awarding an amount of Rs.4,00,000/-. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of petition till the date of realization.

10. The appeal is, accordingly, allowed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 09.02.2016
TJMR