

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.1308 OF 2009

JUDGMENT:

Andhra Pradesh State Road Transport Corporation preferred the instant Civil Miscellaneous Appeal, aggrieved of the award of Rs.51,000/- as compensation by the learned Chairman, III Additional Motor Accidents Claim Tribunal - cum - Special Judge for SPE & ACB Cases (Full Additional Charge), Nellore (for short 'Tribunal'), through the order and decree, dated 16.12.2008, in M.V.O.P. No.585.

2. The appellants herein viz., the erstwhile Andhra Pradesh State Road Transport Corporation, represented by its Managing Director, Hyderabad and Regional Manager, Nellore (for short 'APSRTC') are respondent Nos.1 and 2 in the O.P. before the Tribunal while the sole respondent is petitioner.

3. For the sake of convenience, the parties are hereinafter referred to as arrayed in the O.P. before the Tribunal.

4. The facts in brief are that on 07.03.2004 at about 5.00 p.m., when the petitioner along with her husband was returning from their relatives house on a Hero Honda Motorcycle, at about 8.30 p.m., an APSRTC bus bearing No.AP-10-Z-2614, driven in a rash and negligent manner at high speed, hit their motorcycle, due to which, they fell down and she sustained grievous injuries. Immediately she was shifted to Government Hospital, Nellore, where she took

treatment as inpatient and then in private hospitals for three (3) months. Stating that she was earning Rs.90/- per day by doing coolie work, sought a sum of Rs.1,00,000/- towards compensation under various heads from the respondents.

5. Respondent No.2 filed counter and the same was adopted by respondent No.1, by filing a memo, opposing the claim.

6. The Tribunal, having framed three (3) issues in order to fix responsibility in taking place of the accident and to determine compensation to which the petitioner is entitled, examined the petitioner as PW.1 and the doctor as PW.2 and marked Exs.A-1 to A-3 on behalf of the petitioner, and, on behalf of the APSRTC, no oral or documentary evidence was adduced.

7. The Tribunal recorded a finding on issue No.1 favouring the petitioner. On issue No.2, taking the contents of Ex.A-2 into consideration which reflect that the petitioner sustained two grievous injuries and two simple injuries, granted Rs.5,000/- towards medical expenses, Rs.9,000/- towards loss of temporary earnings, Rs.12,000/- towards pain and suffering and Rs.25,000/- towards permanent disability, and, thus, granted an amount of Rs.51,000/- as compensation with interest at 7.5% per annum.

8. The aforesaid order is under challenge in the instant appeal preferred by the APSRTC on the ground that the amount granted by the Tribunal is excessive and that the Tribunal has not properly

appreciated the evidence and it ought to have held that due to negligence on the part of driver of the motorcycle, the accident has taken place.

9. Heard Sri P. Durga Prasad, learned standing counsel for the APSRTC (appellant).

10. Though notice was served on the petitioner, none appeared on her behalf.

11. Perused the order and decree under challenge and the evidence on record.

12. Though, learned counsel for the APSRTC would contend that the Tribunal was not correct in granting Rs.25,000/- towards permanent disability as no certificate therefor was placed, the fact that the petitioner sustained fracture of 5th metacarpal bone of left hand with fracture of left pubic bone, which are described as injuries 3 and 4 in Ex.A-2, besides two other simple injuries described therein is sufficient enough to hold that the amounts of Rs.12,000/- and Rs.25,000/- granted by the Tribunal towards pain and suffering and permanent disability, respectively, would be reasonable irrespective of the fact whether the permanent disability certificate is forthcoming or not. The other amounts of Rs.5,000/- and Rs.9,000/- granted towards medical expenses and temporary loss of earnings, respectively, also cannot be faulted. Even the interest granted by the Tribunal at 7.5% per annum is in tune with the decision of the Hon'ble Apex Court in

Rajesh v. Rajbir Singh¹. Thus, viewed from any angle, there is absolutely no merit in the appeal.

13. Therefore, the Civil Miscellaneous Appeal is dismissed confirming the order and decree under challenge in all respects. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

July 27, 2016.
PV

A. SHANKAR NARAYANA, J

1. 2013ACJ1403 = 2013(4)ALT35

