

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2836 OF 2005

JUDGMENT:

Having got dissatisfied with the amount of Rs.10,000/- granted as compensation by the order dated 05.09.2005 in M.V.O.P. No.478 of 1999 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Chittoor (for short, 'the Tribunal') as against the claim of Rs.88,500/- laid under Section 166(1) of the Motor Vehicles Act, 1988 (for short, 'the Act'), for the injuries sustained by the appellant-petitioner in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. The appellant herein is the petitioner, while the respondent herein, who is the Andhra Pradesh State Road Transport Corporation (APSRTC), represented by its General Manager, Musheerabad, Hyderabad, is the respondent in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts in brief are that while the petitioner was riding a pillion on Kinetic Honda bearing registration No.AP 03A 7700, it was hit by an APSRTC bus on

account of rash and negligent driving of the driver of the bus. According to the petitioner, he was treated from 08.05.1999 to 26.05.1999 in Government Headquarters Hospital, Chittoor and he sustained fracture and even the driver was tried by the V Additional Judicial Magistrate of First Class, Chittoor in S.T.C. No.193 of 1999 and sought the aforesaid compensation.

5. Respondent-Corporation opposed the claim raising various pleas.

6. Basing on the said pleadings, the Tribunal framed the following issues about the responsibility for the accident:

"1. Whether the accident was caused due to the composite negligence of the rider of the Kenetic Honda bearing No.A.P.03-A-7700 and the driver of the RTC bus bearing No.A.P.10-Z/5436 or any one of them?

2. Whether the petitioner is entitled for any compensation? if so, to what quantum and from whom?

7. During enquiry, the petitioner examined himself as P.W.1 besides examining two doctors as P.Ws.2 and 3 and marked Exs.A.1 to A.7 to substantiate his claim; whereas, on behalf of respondent-Corporation, driver of the RTC bus was examined as R.W.1, but no documents were filed.

8. On appraisal of evidence on record, the Tribunal held issue No.1 in favour of the petitioner; and on issue No.2, having found that the petitioner sustained simple injury and also referring to S.T.C., where the driver of RTC bus was convicted with a fine of Rs.500/- for the offence punishable under Section 337 IPC, granted a sum of Rs.10,000/- as global compensation.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal has granted meager compensation and, therefore, sought to grant the balance amount of compensation.

10. Heard Sri P. Govinda Reddy, learned counsel for the appellant-petitioner. No representation for the respondent-Corporation.

11. Perused the order and the evidence on record. The only fact that favours the petitioner to enhance the compensation amount is that the petitioner had undergone treatment from 08.05.1999 to 26.05.1999 in Government Headquarters Hospital, Chittoor, which shows that there was some impact on the petitioner in pursuing regular activities. When kept in view the same, the petitioner is entitled to a total sum of Rs.20,000/- as against Rs.10,000/- granted by the Tribunal.

12. Thus, the petitioner is entitled to a total sum of

Rs.20,000/- (Rupees twenty thousand) as against Rs.10,000/- granted by the Tribunal, towards compensation and the same is accordingly granted. So far as the rate of interest is concerned, the Tribunal granted the same at 9% per annum and the same is maintained on the amount granted by the Tribunal and the interest at 7.5% per annum is granted on the enhanced amount from the date of petition till realization in view of the decision of the Hon'ble Apex Court in **Rajesh and others Vs. Rajbir Singh and others**^[1].

13. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation with interest, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

14. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

26th February, 2016

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^[1] 2013 ACJ 1403