

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.775 of 2009

JUDGMENT :

The instant Civil Miscellaneous Appeal is preferred by the erstwhile A.P. State Road Transport Corporation (for brevity "the Corporation"), challenging the order and decree dated 06.06.2007 passed in M.V.O.P.No.549 of 2003 by the Chairman, Motor Accidents Claims Tribunal-cum-VI Additional District Judge (Fast Track Court), Tirupati, Chittoor District (for brevity "the Tribunal"), awarding a sum of Rs.73,250/- towards compensation with interest at 7% per annum from the date of the petition till the date of its deposit into the Court, as against the claim of 1,50,000/- made by the petitioner under Section 166(1)(a) of the Motor Vehicles Act, 1988 for the injuries sustained by him in a motor vehicle accident that occurred on 05.12.2002, on the main ground that the Disability Certificate certifying the disability suffered by the petitioner was not issued by the Medical Board and the Tribunal went wrong in assessing the compensation basing on such certificate.

2. The appellant – Corporation herein is respondent and the respondent herein is the petitioner in M.V.O.P.No.549 of 2003. For the sake of convenience, the parties herein are referred to as they are arrayed in M.V.O.P.No.549 of 2003 before the Tribunal.

3. The facts would show that on 05.12.2002 at about 8.15 p.m., while the petitioner was riding a pillion, driven by one T. Peri Swamy on the motor cycle bearing No.AP-03G-8166 and proceeding on the left side of the road on the tank bund of

Damalacheruvu on Pakala – Damalacheruvu road, the bus bearing No.AP 10Z 7560 belonging to the respondent – Corporation, driven by its driver in a rash and negligent manner and without due care and caution, came in opposite direction and dashed against the said motor cycle, as a result of which, the rider and the petitioner fell down on the road and sustained injuries and the motor cycle was also damaged.

4. According to the petitioner, he sustained (1) a lacerated injury of 4 x 4 cm over forehead, red and bleeding; (2) a lacerated injury of 2 x 1 x 1 cm on the knee joint, fracture of knee joint; (3) lacerated injury of 3 x 2 x 2 cm over middle of forehead, red and bleeding; (4) fracture of right arm bone as per radiological report; (5) fracture of middle 1/3rd of radius right fore-arm; and (6) chip fracture of right knee lower end of femour and also head injury and other injuries. Immediately, after the accident, both the petitioner and the injured rider of the motor cycle were shifted to the Government Hospital, Pakala, and later, the petitioner was shifted to SVRR Hospital, Tirupati, for better treatment. Crime No.93 of 2002 was also registered under Sections 337 and 338 IPC against the driver of the offending bus belonging to the respondent - Corporation. Therefore, the petitioner claimed a sum of Rs.1,50,000/- towards compensation for the injuries sustained by him in the accident.

5. Counter affidavit was filed by the respondent – Corporation opposing the said claim on various grounds.

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

“1. Whether the driver of APSRTC bus bearing No.AP 10Z 7560 drove the same in a rash and negligent manner and caused the accident

on 05.12.2002 in which the petitioner sustained injuries?

2. Whether the petitioner is entitled for compensation? If so, to what amount?

3. To what relief?"

7. During enquiry, on behalf of the petitioner, besides examining himself as P.W.1, the petitioner also examined the Doctor, who treated him, as P.W.2, and got marked Exs.A-1 to A-7. On behalf of the respondent - Corporation, the Conductor of the offending bus was examined as R.W.1 and no documents were marked.

8. The Tribunal, after going through the evidence and the material on record, held issue Nos.1 and 2 in favour of the petitioner and against the respondent – Corporation and accordingly, awarded a compensation of Rs.73,250/- together with proportionate costs and interest at 7% per annum from the date of petition till deposit into the Court. Hence, the present Civil Miscellaneous Appeal by the respondent – Corporation.

9. Heard Sri A. Rama Rao, learned Standing Counsel for the appellant – Corporation as well as Sri V. Sudhakar Reddy, learned counsel for the respondent – petitioner and perused the impugned order and the evidence available on record.

10. The only point that requires consideration in this appeal is, whether the disability accepted by the Tribunal was correct, since the Disability Certificate was issued by P.W.2 - Doctor, who treated the petitioner, but no Certificate was issued by the Medical Board.

11. When the reasons assigned by the Tribunal are observed, it

is evident that the Tribunal, based on the evidence of P.W.2 and in view of the restricted movement of the knee joint of the petitioner, recorded a finding that the petitioner suffered 17% permanent disability. Therefore, when a finding is recorded by the Tribunal accepting the disability on the basis of evidence of P.W.2 – Doctor and determined the amount of compensation, certainly, unless that finding is held to be perverse, the same does not warrant interference. In that view of the matter, certainly, there are no merits in the present appeal and the same deserves to be dismissed.

12. Accordingly, Civil Miscellaneous Appeal is dismissed, confirming the order and decree dated 06.06.2007 passed by the Tribunal in O.P.No.549 of 2003. No order as to costs.

13. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE A. SHANKAR NARAYANA

22.07.2016.
Msr

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