

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No. 1511 of 2006

JUDGMENT:

This appeal is arising out of the order, dated 12.04.2006, in O.P.No. 1025 of 2004 on the file of the Chairman, Motor Accident Claims Tribunal-cum-XIII Additional Chief Judge, City Civil Court, Hyderabad.

2. The appellant is an agriculturist. On 19.11.2002, he along with other farmers loaded their paddy bags into a DCM van bearing No.AP 03U 1579 in their village in order to sell at Achampet market and was proceeding in the said vehicle. When they reached Ramajipally shivar at about 12.30 hours, the driver of the said vehicle drove it in a rash and negligent manner at high speed and lost control over it and thereby the vehicle turned turtle. As a result of which, the appellant sustained a fracture of femur left leg and other multiple injuries all over his body. Immediately, he was shifted to Government hospital for treatment and thereafter to Osmania General Hospital for better treatment. The police, P.S.Balmoor, registered a case in crime No.61 of 2002 for offences under Sections 304-A, 337 and 338 IPC against the driver of the vehicle. Due to the accident, the appellant sustained permanent disability and doctors advised him to take bed rest for six

months. Therefore, he filed the above petition claiming compensation of Rs.50,000/-. Being the 1st respondent is owner and the 2nd respondent is insurer of the vehicle, they are jointly and severally liable to pay the compensation.

3. The 1st respondent remained *ex parte*, while the insurer of the crime vehicle filed their a counter denying the manner in which the accident took place and also their liability to pay the compensation. According to them, the vehicle involved in the accident is meant for carrying goods purpose only and not for carrying passengers, but the vehicle carried the passengers unauthorizedly. The compensation claimed under different heads is highly excessive. Therefore, prayed to dismiss the petition.

4. After analyzing the evidence on record, the Tribunal awarded a sum of Rs.20,000/- making both the respondents liable to pay the compensation with proportionate costs and interest at 6% p.a. from the date of petition till realization. Feeling aggrieved by the award passed by the Tribunal, the appellant has preferred this appeal.

5. Learned counsel for the appellant is not present and there is no representation on his behalf. The appeal against the 1st respondent/owner was dismissed for default.

6. Heard the learned counsel for the 2nd respondent-Insurance Company. He submits that the award of compensation by the Tribunal is in accordance with law and it does not require any interference. Therefore, prayed to dismiss the appeal.

7. The quantum of compensation for grievous injury, pain and sufferance, and loss of earnings, and the rate of interest at 6% p.a., awarded by the Tribunal are being disputed by the appellant, as per the grounds of appeal.

8. Now, the point for consideration in this matter is whether there are sufficient grounds for enhancement of the compensation awarded by the Tribunal.

9. It is pertinent to note that there is no dispute with regard to any other aspect, except the quantum of compensation for grievous injury, pain and sufferance and loss of earnings, and the rate of interest awarded by the Tribunal.

10. The appellant was aged 40 years as on the date of the accident and he was an agriculturist by profession and his monthly income was Rs.3,000/- p.m. He filed Ex.A.4 discharge card. As per Ex.A.4, the appellant was admitted in Osmania General Hospital on 19.11.2002 and discharged on 25.11.2002, which shows that he was treated as

inpatient for a week in the hospital. It further shows that he suffered a fracture of femur left leg and POP was applied. At the time of discharge, he was directed to take certain tablets and attend the hospital for review after three weeks. From the above, it is clear that the petitioner received a fracture and it is grievous in nature. But, after considering the injury as grievous in nature, the Tribunal did not award any amount for the same. Further, the amounts awarded under pain and sufferance and loss of earnings are on lower side. Therefore, considering the nature of the injury suffered by the appellant and the treatment undergone by him, I am of the view that the appellant is entitled for a compensation of Rs.15,000/- for the grievous injury suffered by him, Rs.10,000/- towards pain and sufferance instead of Rs.5,000/-, Rs.5,000/- for loss of earnings instead of Rs.3,000/- , apart from the compensation awarded by the Tribunal for transportation, damage to clothes, attendant charges, extra nourishment and medical expenses of Rs.12,000/-. Thus, the compensation awarded by the Tribunal is enhanced from Rs.20,000/- to Rs.42,000/-.

11. In the grounds of appeal, the appellant disputed the rate of interest granted by the Tribunal at 6% p.a. In view of the principles laid down by the Larger Bench of this Court in *A.P.S.R.T.C. and*

*another Vs. B. Vijaya and other*¹, and in view of the decision of the Apex Court in *Dharampal and others Vs. U.P. State Road Transport Corporation*², I feel it appropriate to award interest at the rate of 7.5% p.a. from the date of petition till realization.

12. In the result, the appeal is allowed in part. The compensation awarded by the Tribunal is enhanced from Rs.20,000/- to Rs.42,000/- with proportionate costs and interest at 7.5% p.a. from the date of petition till realization. The order of the Tribunal in other respects shall remain intact.

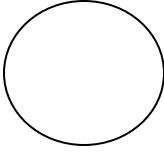
Consequently, miscellaneous petitions if any pending in the appeal shall stand dismissed. No order as to costs.

15th November, 2016
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G. SHYAM PRASAD, J

¹ MANU/AP/0724/2002

² MANU/SC/7680/2008



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