

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.2347 OF 2009

JUDGMENT:

The erstwhile Andhra Pradesh State Road Transport Corporation, represented by its Managing Director, Hyderabad is the appellant herein, which was sole respondent in M.V.O.P. No.608 of 2005 on the file of the learned Chairman, Motor Accidents Claims Tribunal - cum - II Additional District Judge, Fast Track Court, Srikakulam.

2. The present appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') is preferred by the APSRTC aggrieved over the order and decree, dated 28.04.2008, whereby and whereunder, an amount of Rs.4,10,000/- is awarded towards compensation as against the claim of Rs.3,00,000/- laid under Section 166 of the Act, mainly on the ground that the respondent - petitioner (claimant) failed to establish rash and negligent driving of the driver of the APSRTC bus bearing No.AP-9-Z-1834 that involved in the accident and that the compensation awarded is excessive and contrary to the settled principles of law and, therefore, sought to set aside the same.

3. Heard Sri S.V. Ramana, learned standing counsel for the APSRTC.

4. Despite service of notice, none appears for the respondent - petitioner.

5. Perused the order and the decree under challenge and the material on record.

6. Admittedly, the claimant was ten (10) years old on the date of accident which occurred on 24.10.1998.

7. It is no doubt true, the learned standing counsel for the APSRTC would submit that the Tribunal was not right in granting in excess of what was claimed, more particularly, the amount of Rs.50,000/- granted towards marital prospects ought to have avoided, and, thus, sought to modify the order and the decree under challenge.

8. There was amputation of left leg above the knee joint and below the hip sustained by the petitioner in the accident since driver of the APSRTC bus driven in a rash and negligent manner, dashed her and ran over her left leg resulting in amputation.

9. The order would clearly show that the Tribunal placed reliance on the decisions in **Gita Devi v. Himachal Road Transport Corporation** [2007 ACJ 1061], **Jami Santosh Kumar v. Lpinti Dalayya** [CMA No.3083 of 2001, erstwhile A.P. High Court], **M. Venka Kranthi Kumar v. S.K. Jaleel** [CMA No.2753], **Anoop Kumar v. Janrel Singh** [2007ACJ 2296 Madhya Pradesh High Court] and **Fakirappa v. Yallawwa** [2004 ACJ 1141 DB, Karnataka

High Court], where the claimants were minors aged below ten (10) years and the amounts of Rs.4,00,000/-, Rs.3,00,000/- Rs.3,65,000/-, Rs.5,00,000/- and Rs.5,85,000/- have been awarded.

10. In the present case, admittedly, the minor girl lost her one of the main limbs at the age of nine years. The Tribunal rightly granted Rs.1,50,000/- towards amputation, Rs.50,000/- towards pain and suffering, Rs.1,00,000/- towards loss of amenities in life, particularly, Rs.50,000/- for marriage prospects, Rs.10,000/- towards medical expenses, attendant, conveyance and special diet and Rs.50,000/- towards future medical and other expenses, making a total of Rs.4,01,000/-.

11. By any stretch of imagination, certainly, it cannot be said that the amount determined by the Tribunal and awarded towards compensation can be construed as excessive or exorbitant. The mere fact that the claim was laid for awarding Rs.3,00,000/- is no ground to restrict the amount determined to the claim i.e., Rs.3,00,000/-, as the law is well settled that the compensation when determined is fair, just and adequate, can be awarded though, it exceeds the claim made in view of the law declared by the Hon'ble Supreme Court in **Nagappa v. Gurudayal Singh & others**¹ **Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Company Limited**² and **Rajesh and others v. Rajbir Singh and others**³.

¹ AIR 2003 SC 674

² 2012 ACJ 191 (SC)

³ 2013ACJ1403 = 2013(4)ALT35

12. Even the rate of interest at 7.5% per annum granted is in tune with the rate of interest granted by the Hon'ble Supreme Court in **Rajesh's Case³**, and, therefore, does not warrant interference by this Court.

13. Thus, viewed from any angle, the award of the Tribunal cannot be upset and, therefore, the appeal is dismissed. There shall be no order as to costs.

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

December 27, 2016.

PV

A. SHANKAR NARAYANA, J

