

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A. No.2451 of 2005

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JUDGMENT:

This appeal is preferred by the injured, against the award in O.P.No.98 of 2003 on the file of the Motor Accidents Claims Tribunal-cum-District Judge, Anantapur (for short, 'the Tribunal'), arising out of a motor accident that occurred on 22.02.2001 while he was working as a Police Constable at Kadiri on escort duty to the Finance Minister of Government of Maharashtra and was travelling in the car bearing registration No.MH 09 Z 9999.

It was alleged that when he was going in the said car, an ambassador car bearing registration No.KA05 9569, coming from Bangalore side, dashed against the car wherein he was travelling as an escort constable. In the said accident, one person by name Ramarao died on the spot. The petitioner was admitted in the Mallya Hospital, Bangalore, and major surgeries were performed on him. He claimed a compensation of Rs.4,00,000/-, but the Tribunal awarded an amount of Rs.87,000/-, taking one fracture into consideration and his admission in the hospital during the second spell from 06.09.2002 to 10.09.2002 only, ignoring the admission during the first spell immediately after the accident.

It is the case of the learned counsel for appellant that since the claimant was working as a police constable on the date of accident and he was aged about 24 years, he had bright chances for being promoted to the higher post. In view of the fracture sustained by him, the chances of promotion were denied to him as he cannot participate in the physical test.

The Tribunal observed that the petitioner himself admitted in the cross-examination that he has not produced any document showing that he was declared unfit for promotion.

In view of the omission of the Tribunal to take the hospitalization of claimant during 22.02.2001 to 18.03.2001 and also omitting to take one more fracture

into consideration, having its effect on the chances of promotion, I deem it appropriate to set aside the award in O.P. No.98 of 2003, dated 17.01.2005, passed by the Tribunal, and remand the matter to it for a fresh consideration in accordance with law. The claimant-appellant is given liberty to adduce evidence with regard to the denial of chances of promotion, if any, and the Tribunal shall take into account the evidence available on record, already recorded, and the further evidence, that may be adduced by the claimant, and pass appropriate award within three (3) months from the date of receipt of a copy of this order. The amount already withdrawn by the appellant-claimant would be subject to further orders to be passed by the Tribunal, consequent to the remand.

Accordingly, this appeal is allowed. No order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

01.02.2016

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