

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.NO.824 OF 2005

JUDGMENT:

This appeal is preferred by the appellant-petitioner against the order, dated 24-09-2001 in O.P.No.57 of 1998 on the file of the Additional District Judge-cum-Chairman, Motor Accident Claims Tribunal, Nizamabad (for short 'the Tribunal) seeking enhancement of compensation.

2. The appellant herein is the petitioner, whereas the respondents herein are the respondents before the Tribunal.

3. For the sake of convenience, the parties herein after will be referred to as they were arrayed before the Tribunal.

4. Petitioner herein filed the above O.P. claiming compensation of Rs.2,00,000/- stating that he was an agriculturist-cum-bullock cart owner. On 10-01-1998 when he was driving the bullock cart from Shakkarnagar towards Nizamabad side on the side of the road at about 10.30 P.M., and when he reached near Bank, Yedpally, a Bore well lorry bearing No. AP-25A-3969 driven by its driver in a rash and negligent manner with high speed came from behind without blowing horn and dashed against the bullock cart and other three bullock carts, as a result of which, the petitioner fell down from the bullock cart and received injuries. The bullock cart was also damaged. Initially he was admitted in Government Headquarters Hospital, Nizamabad and was treated by Dr.L.Ramulu, Orthopaedic Surgeon and his left leg was operated. Hence, the claim petition.

5. 1st respondent-owner of the lorry remained ex-parte and the 2nd respondent-Insurance Company filed counter denying the averments in the petition and involvement of the bore well lorry and receipt of injuries by the petitioner in the accident. The driver of the crime vehicle does not have any valid and subsisting driving licence at the time of accident to drive the vehicle. The claim of the petitioner is excessive and hence, prayed to dismiss the petition.

6. Basing on the above pleadings, the following issues were settled for trial:

1. Whether the accident was due to rash and negligent driving of the Bore well lorry bearing No.AP-25-A-3969 by its driver?

2. Whether the petitioner is entitled for compensation and if so, to what amount and against which of the respondents?

3. To what relief?

7. On behalf of the petitioner, P.Ws. 1 to 3 were examined and got marked Exs.A1 to A4 and Exs.C1 and C2. On behalf of the 2nd respondent, no evidence either oral or documentary was adduced.

8. The Tribunal after considering the evidence on record, held that the accident was occurred due to rash and negligent driving of the lorry bearing No. AP-25-A-3969 by its driver.

9. Regarding injuries, the petitioner filed Ex.A2-wound certificate and Ex.C1-disability certificate issued by P.W.3. As per Ex.A2, he sustained lacerated injury and fracture of ulna right side and fracture of right side ribs of 3rd to 8th. The petitioner was admitted on 11-01-1998 and discharged on 21-01-1998. The Tribunal awarded an amount of Rs.80,000/- towards the injuries basing on Ex.C1- disability certificate of 30%. An amount of Rs.5,000/- was awarded towards medicines besides an amount of Rs.5,000/- towards pain and sufferings. An amount of Rs.10,000/- was awarded towards damage to bullock cart and Rs.15,000/- towards death of the bull. Thus, in all an amount of Rs.1,15,000/- was awarded as compensation to the petitioner. Being not satisfied with the said compensation, the petitioner filed the present appeal.

10. As seen from the award of the Tribunal, dated 24-09-2001, it is clear that the Tribunal had taken into consideration Ex.C1-disability certificate issued by P.W.3. The said certificate was not issued by any medical board. P.W.3 was examined on commission and stated that he issued Ex.C1-disability certificate on his own. There is no dispute with regard to the injuries sustained by the petitioner. No doubt, the injuries are grievous, but an amount of Rs.80,000/- was awarded on the basis of disability certificate. The disability certificate itself is in dispute and since no appeal is preferred by the Insurance Company, this Court is not examining the aspect of justifiability of

awarding an amount of Rs.80,000/- to the two fractures. The petitioner took treatment in Government Headquarters Hospital, Nizamabad as inpatient for 15 days and for the said purpose, Rs.5,000/- was awarded towards medicines and Rs.5,000/- was awarded towards pain and sufferings. Awarding the said amount is justifiable with the facts of the case. Since the present appeal is filed by the petitioner, this Court feels that the compensation awarded by the Tribunal for the injuries sustained by the petitioner in the accident that occurred on 10-01-1998 is just and proper and this Court is not inclined to enhance the amount awarded under different heads.

11. Accordingly, the appeal is dismissed confirming the award, dated 24-09-2001 in O.P.No.57 of 1998 passed by the Tribunal. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 21-01-2016

Hsd