

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.1661 OF 2009

JUDGMENT:

The instant Civil Miscellaneous Appeal is preferred by the sole respondent viz., Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad, represented by its General Manager, on the ground that the compensation of Rs.60,970/- awarded by the learned Chairman, Motor Accidents Claims Tribunal - cum - VI Additional District and Sessions Judge, Prakasam District at Markapur (for short 'Tribunal'), towards the injuries sustained by the petitioner, a minor boy, aged five (5) years, represented by his mother being his natural guardian, is on higher side.

2. The compensation was awarded through the order and decree, dated 29.08.2006, in O.P. No.231 of 2004, as against the claim of Rs.1,00,000/-, laid under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

3. Heard Sri P. Durga Prasad, learned counsel for the appellant - APSRTC.

4. No representation for the respondent - petitioner (claimant).

5. The fact-situation occurring in the instant case is, though, disputed by the APSRTC on the ground that there has been contributory negligence on the part of the driver of the Jeep bearing

No.AP-7-T-6684, in which the petitioner along with other students was proceeding to the School, but, still, the finding recorded by the Tribunal, on issue No.1, cannot be disturbed for the reason that the APSRTC has not even examined driver of the bus bearing No.AP-10-Z-3140 that involved in the said accident. Therefore, that finding cannot be disturbed and, therefore, the same is maintained.

6. Turning to the compensation awarded by the Tribunal, the amount of Rs.15,000/- granted towards pain and suffering, Rs.20,570/- towards medical expenses, Rs.1,500/- towards transport charges, Rs.5,000/- towards attendants, extra-nourishment and incidental expenses, and Rs.18,900/- towards disability, making a total sum of Rs.90,970/-. In fact, the evidence of PW.2, the medical officer, would show that the petitioner sustained fracture to lower left leg and he was operated on 13.09.2004 for removal of metal from left thigh as there was fracture to his left thigh. Even the Tribunal, though, finds some discrepancy in the description of injury, still, arrived at a definite finding that the petitioner sustained fracture injury, based on the evidence of PW.2. Further, the amount of Rs.20,570/- spent towards medical expenses itself speaks the sufferance the petitioner has undergone at the age of five (5) years.

7. Thus, viewed from any angle, the amount of Rs.60,970/- granted by the Tribunal cannot be construed as excessive or arbitrary, more particularly, when his studies for one year were dislocated on account of injuries sustained by him in the said accident.

8. Further, so far as rate of interest is concerned, the Tribunal awarded the same at 9% per annum. The same is reduced to 7.5% per annum, in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹ from the date of petition till realization.

9. Thus, the Civil Miscellaneous Appeal is allowed in part reducing the rate of interest alone, as indicated above. There shall be no order as to costs.

August 11, 2016.
PV

A. SHANKAR NARAYANA, J

¹ 2013ACJ1403 = 2013(4)ALT35

