

HON'BLE SRI JUSTICE A. SHANKAR

NARAYANA

M.A.C.M.A. No.131 OF 2005

JUDGMENT:

The instant appeal is preferred by the sole respondent - Andhra Pradesh State Road Transport Corporation (APSRTC), represented by its Managing Director, Hyderabad in O.P. No.19 of 2001 on the file of the Chairman, Motor Accident Claims Tribunal - cum - II Additional District Judge, Madanapalle (for short 'the Tribunal'), having got aggrieved of the award of Rs.65,000/- granted by the Tribunal as compensation for the injuries sustained by the petitioner in a road accident, by order and decree, dated 24-04-2004.

2. The appellant herein is the sole respondent in the O.P. before the Tribunal while respondent is the petitioner.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the O.P. before the Tribunal.

4. The facts would show that on 27-12-1999, the petitioner was travelling in an RTC bus bearing registration No.AP 9Z 7249 from Punganur to go to Tirupati and at about 2.45 p.m., when it reached near

Madanapalle cross roads near Punganur - Chowdepalle road, since the driver of the bus drove it in a rash and negligent manner, he lost control over it and hit a double bullock cart coming in opposite direction and then hit a branch of a tree situate on the right side margin of the road and, thus, occasioned accident, in which, the petitioner sustained fracture to his right forearm, dorsal aspect of middle finger and thumb and the index fingers were also fractured. The petitioner claiming that he sustained partial permanent disability, sought a sum of Rs.1,00,000/- as compensation on the ground that he is unable to pursue cultivation.

5. Respondent - Corporation filed counter resisting the claim and tried to explain away the negligent driving attributed to the driver of the bus.

6. Based on the pleadings, the Tribunal framed four issues in the direction of fixing liability as well as determining compensation.

7. During inquiry, the petitioner examined himself as PW.1 and marked Exs.A-1 to A-4 to substantiate his claim. On behalf of the respondent, driver of the bus was examined as RW.1, but no documents were filed.

8. On issue No.1, the Tribunal having found from the oral evidence on record through PW.1 and

documentary evidence, Exs.A-1 and A-4, showing that the driver of the bus (RW.1) was clutched for the offence punishable under Section 338 IPC in Crime No.114 of 1997 of Chowdepalle Police Station, recorded a finding in favour of the petitioner discarding the evidence of RW.1. On issue No.3, while deliberating disability at 50% projected by the petitioner, granted Rs.10,000/- towards pain and suffering, Rs.5,000/- towards medical expenses, Rs.40,000/- towards loss of earnings and Rs.10,000/- towards loss of amenities, making a total of Rs.65,000/- as compensation with interest at 9% per annum thereon.

9. It is the aforesaid order which is under challenge in the instant appeal mainly on the ground that the Tribunal has not properly appreciated the evidence on record, and that no legally acceptable evidence was let in by the petitioner to prove partial permanent disability at 50% and, therefore, sought to set aside the order and decree.

10. Heard Sri D. Kodandarami Reddy, learned counsel for the respondent. No representation for the appellant - APSRTC.

11. Perused the order and the evidence on record, both, oral and documentary, let in by the parties.

12. It is no doubt true, the Medical Officer was not examined, but, the wound certificate marked as Ex.A-2 would show that the petitioner sustained the following injuries:

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1. A lacerated injury 15 cm x 5 cm over the rt. forearm in the middle posteriorly.
2. Lacerated injury behind the rt. little finger, n.c. is hanging.
3. Fracture of the right middle finger in the metacarpal n.c. with dislocation.
4. Skin loss with tears the dorsal tender and fracture at the inter phalanged joint in rt. side index of thumb.

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Among the aforesaid injuries, the Medical Officer opined that the injury Nos.3 and 4 were grievous in nature, whereas injury Nos.1 and 2 were simple in nature. Thus, when viewed, the two fractures sustained by the petitioner, certainly, the amount of Rs.65,000/- granted by the Tribunal quantifying it under various heads, cannot be construed as excessive or arbitrary. On the other hand, the amount granted by the Tribunal is just and reasonable warranting no interference at all. There is no merit in the appeal and, consequently, the appeal is liable to be dismissed.

13. In the result, the appeal is dismissed. There shall be no order as to costs.

14. As a sequel thereto, miscellaneous

applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA J.

March 18, 2016.
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