

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.NO.2456 OF 2005

JUDGMENT:

This appeal is preferred by the appellant-petitioner, who filed O.P.No.1561 of 2002 before the M.A.C.T.-cum-IV Addl. District Judge, Nizamabad. The claim petition was filed claiming compensation of Rs.2,00,000/-for the injuries sustained by the minor in a road accident that occurred on 25-08-2002 at about 6.00 P.M., near Eluru Daba Mess, Thirumanpally village sivar on Nagpur to Hyderabad road, High Way No.7, Dichpally mandal, Nizamabad District.

2. 1st respondent remained ex-parte. 2nd respondent filed counter denying the averments made in the petition stating that the driver was not holding valid and subsisting driving licence at the time of accident and the claim of the petitioner is excessive, arbitrary.

3. Basing on the above pleadings, the Tribunal framed the following issues:

1.Whether the accident occurred due to rash and negligent driving of the jeep bearing No.AP-25-F-888 by its driver?

2.Whether the petitioner is entitled for compensation, if so, from which respondents?

3.To what relief?

4. On behalf of the petitioner, P.Ws. 1 and 2 were examined and Exs.A1 to A7 were marked. No evidence either oral or documentary was adduced on behalf of the 2nd respondent.

5. The Tribunal on the basis of the oral and documentary evidence held that the accident was occurred due to rash and negligent driving of the jeep bearing No.AP-25-F-888 by its driver.

6. With regard to injuries, the case of the petitioner was that she sustained fracture to skull, loss of two upper teeth and loosening of other teeth, injuries on face, disfiguration etc., Immediately after the accident, she was shifted to Government Hospital, Nizamabad and thereafter, she was treated at Amrutha Laxmi Hospital, Nizamabad. She

was operated twice and a rod was also inserted and an amount of Rs.1,00,000/- was spent towards medical expenses.

7. As per Ex.A3-wound certificate, the petitioner sustained the following injuries:

1. Loss of upper two teeth on right side with bleeding gums, which is grievous in nature.
2. 3 x 2 cms lacerated wound lower and upper lip which is simple in nature

The first injury was grievous in nature and the second injury was simple in nature. P.W.2 deposed that the injured suffered 20% permanent partial disability due to loss of upper two teeth. He was not a doctor who treated the petitioner. In the cross-examination, he stated that the injuries mentioned in Ex.A3 were healed up and he issued disability certificate for post-traumatic disfigurement. At the time of the accident, the petitioner was aged about 9 years. Taking into consideration those circumstances, the Tribunal awarded an amount of Rs.5,000/- towards injuries and Rs.500/- towards medical expenses and Rs.600/- towards medical bills and Rs.400/- towards transportation. Thus in all, an amount of Rs.6,500/- was awarded by the Tribunal vide impugned order, dated 22-02-2005. Being not satisfied with the compensation, the present appeal is preferred by the petitioner.

8. As per the evidence, it is clear that a girl of 9 years lost two upper teeth and there was lacerated wound in the lower and upper lip. The Tribunal awarded Rs.5,000/- for loss of teeth and it is common knowledge that the charges for Dental Surgeon will be more. In view of the same, the said amount is grossly inadequate and it has to be enhanced to Rs.10,000/-. No amount was awarded towards pain and suffering and the petitioner can be awarded an amount of Rs.2,000/- towards pain and suffering. An amount of Rs.1100/- was awarded towards medical expenses besides an amount of Rs.400/- towards transportation and the said amount has to be enhanced at least to Rs.8000/- in view of higher expenses for Dentist. Thus in all, the petitioner is entitled for a sum of Rs.20,000/- towards compensation in place of Rs.6,500/- awarded by the Tribunal. The enhanced compensation amount carry interest at 9% p.a., from the date of petition till the date of realisation.

9. Accordingly, the appeal is partly allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DATED: 22-01-2016
Hsd

A.RAMALINGESWARA RAO, J