

THE HON'BLE SMT. JUSTICE ANIS

M.A.C.M.A. No. 1860 OF 2005

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JUDGMENT:

This appeal is filed by the appellants/respondents under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the order dated 19.04.2005 passed by the Chairman, Motor Accident Claims Tribunal-cum-

I Additional District Judge, Vizianagaram, in O.P.No.51 of 2004, awarding compensation of Rs.1,15,000/- to the respondent/petitioner.

2. The claimant filed the above O.P under Section 163-A of the Act, claiming compensation of Rs.1,50,000/- on account of the injuries sustained by him in a motor vehicle accident.

3. The appellants/APSRTC were arrayed as the respondents, while the respondent as the petitioner in the O.P. before the Tribunal.

4. For the sake of convenience, the parties are referred to as arrayed in the O.P. before the Tribunal.

5. The brief averments made in the petition are as follows:

On 17.10.2003 at about 6.30 p.m., while the petitioner was going on a cycle on the left side of the road and when he reached near Aruna Jute Mill, Vizianagaram, the driver of the RTC bus bearing No.AP10Z 9095, drove it in a rash and negligent manner at high speed, without blowing horn, came in opposite direction and dashed against the petitioner. As a result, the petitioner sustained injuries and immediately he was taken to the Government hospital,

Vizianagaram for treatment. Hence, the petitioner filed the present petition by claiming compensation.

6. The second respondent filed counter on behalf of the respondents and denied that the driver of the RTC bus was rash and negligent while driving the bus. The respondent further categorically stated that the petitioner suddenly tried to cross the road from left side to right side without observing the vehicular traffic on the road and hit the bus, thereby the accident occurred only due to the fault of the petitioner himself. The respondent further stated that there is no rash and negligent driving on the part of the driver of the RTC bus and the compensation claimed by the petitioner is high and excessive, and finally prayed the Court to dismiss the petition.

7. Basing on the pleadings, the Tribunal framed three issues and to substantiate the claim, on behalf of the petitioner, PWs 1 and 2 were examined and got marked Exs.A.1 to A.8 and Exs.X.1 and X.2. On behalf of the respondents, no oral or documentary evidence has been adduced.

8. The Tribunal, after considering the oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the RTC bus bearing No.AP10Z 9095, due to which the petitioner sustained injuries and awarded compensation of Rs.1,15,000/- along with interest at 9% per annum.

9. Aggrieved by the order of the Tribunal, the respondents/APSRTC preferred the present appeal.

10. The learned counsel for the appellants/APSRTC argued that the award passed by the Tribunal is high and excessive and it has

to be reduced. It is also argued that the rate of interest granted by the Tribunal at 9% per annum is also to be reduced to 7.5% per annum, and finally prayed the Court to dismiss the petition.

11. On the other hand, the learned counsel for the respondent/petitioner argued that the compensation granted by the Tribunal is just and reasonable, which needs no interference by this Court.

12. Having regard to the submissions made by both the learned counsel, the point that arises for consideration is:

Whether the appellants/APSRTC have made out any case to set aside the order dated 19.04.2005 passed by the Tribunal in O.P.No.51 of 2004?

13. **Point:**

A perusal of the evidence of PWs 1 and 2, it is clear that the accident occurred due to rash and negligent driving of the driver of the RTC bus bearing No.AP10Z 9095. Further, the petitioner in his evidence categorically stated about receiving of seven injuries and out of which injury Nos.1 and 7 are grievous in nature, and filed the documentary evidence Exs.A.2, A.4 and A.5 to A.8 and also Exs.X.1 and X.2. The Tribunal, after considering Ex.A.8 disability certificate issued by the District Medical Board, Vizianagaram, rightly accepted the disability as 35% partial permanent and awarded compensation of Rs.1,15,000/- under all heads and the said finding of the Tribunal needs no interference.

14. Coming to the rate of interest granted by the Tribunal, it awarded interest at 9% per annum, whereas the learned counsel for the appellants argued that the rate of interest is high and

excessive, and it has to be reduced. However, in view of the different rate of interests granted by the Hon'ble Supreme Court in the decisions reported in *Sanobanu Nazirbhai Mirza and others Vs. Ahmedabad Municipal Transport Service*^[1] and *Rebeka Minz and others Vs. Divisional Manager, United India Insurance Company Limited and another*^[2], the rate of interest, awarded by the Tribunal, is hereby reduced from 9% p.a. to 7.5% p.a. on the entire compensation amount from the date of appeal till the date of realisation only.

15. With the aforesaid observation, the appeal is partly allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

(ANIS, J)

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[\[1\]](#) 2013 ACJ 2733

[\[2\]](#) 2012 ACJ 2328