

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1939 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.1,06,609/- as compensation by the order dated 27.01.2009 in M.V.O.P. No.164 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Chittoor (for short, 'the Tribunal') as against the claim of Rs.2,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') read with the Rules framed thereunder, for the injuries sustained by the appellant-petitioner, a minor boy on the date of accident, in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation, as the appellant-petitioner had suffered a lot due to three fractures to his limbs, which took considerable time to recover, but ultimately, with partial permanent disability persisting.

2. The appellant herein is the petitioner, while the respondent herein, who is the erstwhile Andhra Pradesh State Road Transport Corporation, represented by its Managing Director, Musheerabad, RTC Cross Roads, Hyderabad (for short, 'the Corporation'), is the respondent in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The claim was made for Rs.2,00,000/- by the petitioner for the injuries he sustained on 17.07.2005 at about 8-20 a.m., when an RTC bus bearing registration No.AP 10Z 8815 belonging to the respondent-Corporation came and hit him while he was standing on his bicycle on the left side of the road margin at Kalikiri Cross-roads on Kalikiri-Kandur road and he was immediately shifted to Government Hospital, Piler, from there he was shifted to SVRR Hospital, Tirupati for expert treatment and was treated as an inpatient from 17.07.2005 to 15.08.2005 and undergone major operation on 02.08.2005 to his right hand and right leg. He claims that he was permanent disabled and cannot walk properly and also cannot do any work due to the injuries. Hence, he sought the aforesaid amount from the respondent-Corporation.

5. Respondent-Corporation filed counter resisting the claim.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry, the petitioner examined himself as P.W.4 besides examining his next friend and father as P.W.1 and two doctors as P.Ws.2 and 3 and marked Exs.A.1 to A.7; whereas on behalf of the respondent-Corporation, driver of the bus was examined as R.W.1, but no documents were filed.

7. The Tribunal having recorded findings in favour of the petitioner on all the issues, granted a total sum of Rs.1,06,609/- with interest at 9% per annum.

8. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal has granted very meager amount as compensation and, hence, sought to grant the balance amount.

9. Heard Sri Suresh Kumar Reddy Kalava, learned counsel for the appellant-petitioner. No representation on behalf of the respondent-Corporation despite service of notice.

10. Perused the order under challenge and the evidence on record. The Tribunal obviously has not taken into consideration the disability certificate marked as Ex.A.7. A perusal of Ex.A.7 would show that the same was issued by the Deputy Surgeon, RMO of SVRR Government General Hospital, Tirupati, just indicating the injuries and the permanent disability at 30% without elaborating the degrees of restriction. Therefore, the finding recorded by the Tribunal on Ex.A.7 cannot be faulted.

11. The Tribunal has granted Rs.25,000/- to each grievous injury. When the evidence of P.Ws.2 and 3 is analysed, who are the Deputy Civil Surgeon, Government Hospital, Piler and the Orthopaedic Surgeon, Unit-I of SVRR Hospital, Tirupati and the description of injuries in the evidence of P.W.3 thus:

- "1) Laceration of right forearm on dorsum 10 x 8 cm with skin loss and massive contamination.
- 2) Fracture of shaft of right humerus middle and lower third junction displaced.
- 3) Fracture of shaft of right femur middle third displaced.
- 4) Fracture of left clavicle.
- 5) Tenderness in right calf no clinical evidence of fracture.
- 6) Diffuse swelling of right ankle and right foot with gazed abrasion."

certainly, the petitioner is entitled to more than the said amount. Therefore, at the rate of Rs.30,000/- per grievous injury, including pain and suffering, a sum of Rs.90,000/- is granted as against Rs.75,000/- granted by the Tribunal, while maintaining Rs.5,000/- towards one simple injury granted by the Tribunal. The amounts of Rs.11,609/- towards medical expenses, Rs.10,000/- towards pain and suffering and Rs.5,000/- towards extra nourishment granted by the Tribunal are maintained. As could be seen from the order under challenge, no amount is granted towards attendant charges. Therefore, at the rate of Rs.2,000/- per month, a sum of Rs.12,000/- is granted for six months towards attendant charges.

12. Thus, the petitioner is entitled to a total sum of Rs.1,33,609/- (Rupees one lakh thirty three thousand six hundred and nine) as against Rs.1,06,609/- granted by the Tribunal towards compensation and the same is accordingly granted. So far as the rate of interest is concerned, the Tribunal granted the same at 9% per

annum and the same is maintained on the amount granted by the Tribunal and interest at 7.5% per annum is granted on the enhanced amount of compensation in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**¹.

13. Accordingly, the instant appeal is allowed in part modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

14. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

22nd August, 2016
siva

A. SHANKAR NARAYANA, J

¹ 2013 ACJ 1403

