

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1362 OF 2009

JUDGMENT:

Having got dissatisfied with the amount of Rs.17,070/- granted as compensation by the award and decree dated 12.01.2007, passed in O.P. No.280 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Nellore (for short, 'the Tribunal'), as against the claim of Rs.1,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the petitioner-claimant preferred the instant appeal under Section 173 of the Act, seeking enhancement of compensation.

2. The appellant herein is the petitioner-claimant, while the respondent herein, the erstwhile Andhra Pradesh State Road Transport Corporation, represented by its Managing Director, Hyderabad (for short, 'the Corporation'), was the respondent, respectively in the original petition.

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

4. The facts, in brief, are that on 13.04.2001 at about 10.00 p.m., while the petitioner along with one K.Prabhakar Reddy was going on G.N.T Road from Balaji Steel Factory towards Nellore on a TVS 50 moped, driven

by the said K.Prabhakar Reddy, who had slowed down the moped on observing a stationed tractor opposite Petrol Bunk, an RTC bus bearing registration No.AP 10 Z 3323, coming from Sullurpet to Nellore, driven by its driver in a rash and negligent manner, dashed the TVS 50 moped from its behind, as a result of which, the moped crushed in between the bus and the stationed tractor and the petitioner sustained multiple injuries, while the said K.Prabhakar Reddy succumbed to injuries subsequently. The petitioner was shifted to Bollineni Superspeciality Hospital, Nellore, where he has taken treatment as an inpatient for a period of 12 days. Claiming that due to the accident, he became disabled having suffered partial permanent disability, that he took treatment for six months, that his vision is affected, and that he lost salary for six months, the petitioner sought a compensation of Rs.1,00,000/-.

5. The respondent opposed the claim by filing counter, raising various pleas.

6. Basing on the said pleadings, the Tribunal framed four issues about the responsibility for the accident.

7. During enquiry, the petitioner examined himself as P.W.1, besides examining one S.V.S.N.Raju, the Personal Manager of Balaji Industrial Corporation Limited, Nellore, in which the petitioner was working, as P.W.2 and

marked Exs.A.1 to A.6 and Ex.X1 to substantiate his claim. On behalf of the respondent, the driver of the RTC bus was examined as R.W.1, but no documents were marked.

8. The Tribunal, having analysed the evidence on record, found favour with the petitioner so far as issue No.1 is concerned. On the other issues, the Tribunal, having refused to accept the bunch of medical bills for Rs.3,459/- and the cash receipt for Rs.13,820/- issued by Bollineni Hospital, Nellore, on the ground that the petitioner has not examined the doctor who treated him to establish these documents, granted a sum of Rs.3,000/- towards medical expenses, extra-nourishment and transportation charges, Rs.10,000/- towards pain and suffering and Rs.4,070/- towards loss of earnings. Thus, in all, the petitioner was granted a sum of Rs.17,070/- as compensation with interest at 7.5% per annum from the date of petition till realization.

9. It is the aforesaid order which is challenged in the instant appeal by the petitioner contending in the grounds that the Tribunal granted a meager compensation of Rs.17,070/-, as against the claim of Rs.1,00,000/- laid under Section 166 of the Act, though, the petitioner sustained as many as five injuries and was treated as an inpatient from 13.04.2001 to 25.04.2001 by incurring medical expenditure of Rs.13,820/- and Rs.3,450/-, but the Tribunal, some how, excluded the said amounts and granted only Rs.3,000/- towards medicines, Rs.10,000/-

towards pain and suffering and Rs.4,070/- towards loss of temporary earnings and, thereby, the appellant - petitioner sought to grant the balance amount of compensation.

10. Heard Sri M. Chandra Murthy, learned counsel for the appellant, and Sri P.Durga Prasad, learned Standing Counsel for the respondent.

11. Perused the order under challenge and the evidence on record.

12. Soon after the injuries sustained by the petitioner in a road accident on 13.04.2001, he was admitted in Bollineni Superspeciality Hospital, Nellore, and discharged on 25.04.2001, having got treated for the injuries sustained by him.

13. The documents filed by the petitioner would reflect that he spent a sum of Rs.3,459/- towards medical bills covered by Ex.A3 and Rs.13,820/- towards Hospital bill covered by Ex.A4. However, the Tribunal has not granted these amounts, but granted only Rs.3,000/- towards medicines. As could be seen from the order, no reasons are assigned as to why these two documents were excluded. Therefore, the petitioner is entitled to Rs.3,459/- covered by Ex.A3 and Rs.13,820/- covered by Ex.A4, as against the amount of Rs.3,000/- granted by the Tribunal towards medicines. Further, the Tribunal has granted

Rs.2,000/- for each injury, making a total sum of Rs.10,000/- for five injuries, as mentioned in Ex.A2. The same is enhanced to Rs.15,000/- @ Rs.3,000/- for each injury. The other amount of Rs.4,070/- granted by the Tribunal towards loss of temporary earnings is maintained.

14. Thus, the petitioner is entitled to a compensation of Rs. 36,349/- (Rupees thirty six thousand three hundred and forty nine only), as against Rs.17,070/- granted by the Tribunal, and the same is, accordingly, granted. Interest at 7.5% per annum granted by the Tribunal is maintained on the entire compensation amount awarded from the date of petition till realisation.

15. 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.

16. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

A. SHANKAR NARAYANA, J

03rd August, 2016

v v