

THE HON'BLE SMT JUSTICE ANIS

C.M.A.No. 4794 of 2004

JUDGMENT:

This appeal is filed by the appellant/petitioner under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the order and decree dated 20.09.2004 passed by the Chairman, Motor Accident Claims Tribunal-cum-VI Additional District Judge (Fast Track Court), Guntur, in M.V.O.P.No.775 of 2000, awarding compensation of Rs.32,000/- against the respondent.

2. The appellant/petitioner filed the above Original Petition under Section 163-A of the Act claiming compensation of Rs.90,000/- on account of the injuries sustained by him in a motor vehicle accident that occurred on 01.07.2000.

3. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the Original Petition.

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

On 01.07.2000, the petitioner along with his father and grandmother were traveling on a bullock cart from their village to Gurajala and when they reached near Gangavaram Ralla Vagu, the driver of the respondent's bus bearing registration No.AP 9Z 950 drove the said

vehicle in a rash and negligent manner and at high speed without blowing horn and dashed against the bullock cart. As a result of which, the petitioner fell down and sustained grievous injuries. Immediately after the accident, he was shifted to the Government Hospital, Guntur. The police registered a case in Crime No.76 of 2000. It is stated that due to the accident, the petitioner is unable to lift any weight and sustained disability. At the time of accident, he was earning Rs.50/- to Rs.60/- per day. Therefore, he prayed the Court to grant compensation of Rs.90,000/- along with interest at 18% p.a.

4. The brief averments made in the written statement filed by the respondent are as follows:

The respondent put the petitioner to strict proof of the manner of accident as well as the income of the petitioner and stated that the driver of the bus was driving the bus cautiously and when the bus reached Gurajala, he found that one bullock cart was proceeding in the same direction with bamboo sticks tied to angular iron frame of the bullock cart and while the bus was crossing the bullock cart, the bamboo sticks touched the left side of the bus and thereby the bullock cart tilted and the persons in the bullock cart sustained injuries and there was no rash and negligent driving on the part of the driver of the bus. Hence, prayed the Court to dismiss the petition.

5. Basing on the above pleadings, the Tribunal framed three issues. To substantiate his claim, the petitioner got examined P.Ws.1 and 2 and got marked Exs.A.1 to A.3 and Ex.X.1. On behalf of the respondent, R.W.1 was examined and no documentary evidence was adduced.

6. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of the RTC bus and awarded compensation of Rs.32,000/- along with interest at 9% p.a.

7. Not satisfied with the compensation awarded by the Tribunal, the petitioner filed the present appeal.

8. Learned counsel for the petitioner argued that due to the injuries, the petitioner suffered disability and the Tribunal has not properly assessed the disability. The compensation awarded for pain and suffering and medicines, special diet and attendant charges is very meager. Therefore, he prayed to enhance the compensation.

9. On the other hand, the learned standing counsel for the RTC argued that the compensation granted by the Tribunal is just and reasonable and prayed the Court to dismiss the appeal.

10. Having regard to the submissions made by the learned counsel appearing for both the parties, the points which are to be decided in this appeal are as follows:

- 1) Whether the compensation awarded by the Tribunal is just and reasonable?
- 2) Whether the appellant/petitioner is entitled for enhancement of compensation as prayed for?

POINTS 1 & 2:

11. A perusal of the evidence of P.W.1 coupled with Exs.A.1 and A.2 clearly establishes that the accident occurred due to the rash and negligent driving of the driver of the RTC bus. Therefore, the finding of the Tribunal that the accident occurred due to the rash and negligent driving of the driver of the RTC bus needs no interference.

12. Coming to the quantum of compensation is concerned, the Tribunal after considering the evidence of P.W.2 awarded 24,000/- towards permanent disability suffered by the petitioner, Rs.5,000/- towards pain and suffering, and Rs.3,000/- towards medicines, special diet and attendant charges. The learned counsel for the petitioner vehemently contended that the petitioner was a boy of 16 years at the time of the accident and due to the injuries sustained by him, he is unable to do any work and the compensation awarded is very meager

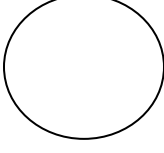
and therefore prayed the Court to enhance the compensation. It is no doubt true that in the accident, the petitioner sustained a grievous injury and P.W.2, who is the doctor and Assistant Professor of Orthopedic in Government Hospital, Guntur, categorically stated about the nature of the injury suffered by the petitioner i.e., a fracture of the right radial head. Therefore, considering the nature of the injury, the petitioner is entitled to a further sum of Rs.5,000/- towards pain and suffering and Rs.3,000/- towards medicines, special diet and attendant charges. Thus, the petitioner is entitled to a total compensation of Rs.40,000/-. The enhanced compensation shall carry interest at the same rate awarded by the Tribunal.

13. In view of the above discussion, the appeal is partly allowed, enhancing the compensation awarded by the Tribunal to the appellant/petitioner from Rs.32,000/- to Rs.40,000/- along with interest at 9% p.a. on the enhanced amount from the date of appeal till the date of realization. No order as to costs.

Consequently, miscellaneous petitions if any pending in the appeal shall stand closed. There shall be no order as to costs.

ANIS, J.

17th September, 2016
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THE HON'BLE SMT JUSTICE ANIS



C.M.A.No.4794 of 2004

17th September, 2016

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