

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.2667 OF 2005

JUDGMENT:

On the ground that meagre compensation of Rs.7,000/- is granted as against the claim of Rs.1,00,000/- laid under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short 'the Act') read with Rule 455 of the of the Andhra Pradesh Motor Vehicles Rules 1989, petitioner preferred this Civil Miscellaneous Appeal against the order and decree, dated 05.03.2005, passed by the learned Chairman, Motor Accidents Claims Tribunal - cum - II Additional District Judge, Nizamabad, in O.P. No.486 of 2000, seeking enhancement of compensation.

2. The appellant herein is petitioner in the O.P. before the Tribunal, while respondent Nos.1 and 2 viz., Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad and Depot Manager of Armoor, Nizamabad (APSRTC), respectively, owner of APSRTC bus bearing No.AP-9-Z-5023, are respondent Nos.1 and 2, respectively,

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

4. The facts would show that on 25.08.1998, while the petitioner was proceeding on a Scooter bearing No.AP-25-E-4188 towards Vijay Theatre, in front of Municipal Office, an APSRTC bus bearing No.AP-9-Z-5023, came in opposite direction, driven by its driver in a rash and negligent manner, hit his scooter, due to which, he fell down and sustained multiple grievous injuries on all parts of his person, and, immediately, he was shifted to Government Hospital, Nizamabad, where he was treated as inpatient, and later he took treatment under private doctors and spent more than Rs.40,000/- towards expenses and extra-nourishment and was still continuing treatment on the date of filing claim petition, and, therefore, sought a sum of Rs.1,00,000/- towards compensation.

5. Common counter is filed by respondent Nos.1 and 2 - APSRTC opposing the claim.

6. The Tribunal, based on the pleadings, framed three (3) issues in order to determine compensation as well as negligence in taking place of the accident.

7. During enquiry, petitioner examined himself as PW.1 besides examining Dr. T. Narsingrao as PW.2 and marked Exs.A-1 to A-6. On behalf of the respondents, no oral or documentary evidence was adduced.

8. The Tribunal, on appraisal of evidence, held issue No.1 in favour of the petitioner. On issue No.2, disbelieving the evidence of PW.2 made certain comments referring to the comments of this Court in C.M.A. No.3518 of 2004, dated 09.11.2004, in **Dasi Narsimlu @ Narsaiah v. Sri Venkateshwar Rai and another** and even the disability spoken to by him at 60% on account of alleged mal-united fracture of both bones of right leg and mal-union of mandible, but, taking the nature of injuries into consideration as seen from Ex.A-3 injury certificate issued by the Government Hospital, finding only two (2) simple injuries, Tribunal granted a sum of Rs.7,000/- towards compensation with interest at 9% per annum.

9. It is the aforesaid order, which is under challenge in the instant appeal contending in the grounds of appeal that the Tribunal did not properly appreciate the evidence on record, more particularly, evidence of PW.2 and placing reliance on certain decisions mentioned in the grounds of appeal, sought to grant the balance amount.

10. Heard Sri K. Sarala Mahender Reddy, learned counsel for the petitioner (appellant), and Sri N. Vasudeva Reddy, learned counsel for the respondents - APSRTC.

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

12(a) The finding recorded by the Tribunal in excluding the evidence of PW.2 and Ex.A-3 disability certificate cannot be faulted. What remains on record is only Ex.A-3, medical certificate issued by the Government Hospital, Nizamabad, describing injuries as simple in nature numbering two (2), thus:

I	Lacerated injury 1/8" x 1/8" over lower lip ... (not visible)	Blunt Objects	fresh	simple
II.	Abrasion 2" x 1/4" over (L) leg		"	" " "

(b) Thus, keeping in view the injuries in Ex.A-3, since the petitioner sustained simple injuries, the amount of Rs.7,000/- granted by the Tribunal is enhanced to Rs.10,000/-.

13. Thus, the petitioner is entitled to a total compensation of Rs.10,000/- (Rupees ten thousand only) as against Rs.7,000/- awarded by the Tribunal, and the same is accordingly awarded. However, the petitioner is entitled to interest at 9% per annum on the compensation granted by the Tribunal, but, on the enhanced compensation at 7.5% per annum, in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[1], from the date of petition till realisation.

14. Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the impugned order and enhancing the compensation, as indicated above. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

March 11, 2016.
PV

A. SHANKAR NARAYANA, J

^[1] 2013ACJ1403 = 2013(4)ALT35