

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.NO.1364 OF 2005

JUDGMENT:

This appeal is preferred by the appellant-petitioner against the order, dated 01-02-2005 in M.V.O.P.No.972 of 2001 on the file of the Chairman, M.A.C.T.-cum-V Additional District Judge, Guntur (for short 'the Tribunal'), seeking enhancement of compensation.

2. The appellant herein is the petitioner, whereas the respondents herein are the respondents before the Tribunal.

3. For the sake of convenience, the parties herein after will be referred to as they were arrayed before the Tribunal.

4. Petitioner filed the above O.P. claiming compensation of Rs.45,000/- for the injuries sustained by her in a motor accident that occurred on 07-06-2001 at about 1.30 P.M., while she was travelling in the trailer from the quarry near Latchamarlapadu village in Veldurthi Mandal, after loading the quarry stones along with other coolies to reach the village Mittameedapalli in Sirigiripadu village to load the stones and when the tractor-trailer reached near Latchamarlapadu cross road of Macherla-Sirigiripadu road, the driver drove the vehicle in the rash and negligent manner at high speed, as a result of which, the trailer fell down and the petitioner sustained serious and grievous injuries to head. She was taken to Government Hospital, Macherla where she was treated as inpatient for 12 days. At the time of accident, she was aged about 35 years and she used to work as cooly by earning Rs.3,000/- per month. Hence, the claim petition.

5. Original owner of the tractor remained ex-parte and subsequent purchaser filed written statement denying the monthly wages. But, however, stated that she was being paid Rs.50/- per day.

6. Insurance Company filed separate written statement denying its liability.

7. Basing on the above pleadings, the following issues were settled for trial:

1. Whether the petitioner sustained injuries in the accident due to rash and negligent driving of the Tractor No.AP 7L 2170 and Trailer No.AP

7L 2171 by its driver?

2.To what compensation amount the petitioner is entitled to and against whom?

3. To what relief?

8. The petitioner himself was examined as P.W.1 and the doctor as P.W.2 and got marked Exs.A1 to A4. On behalf of the respondents, R.W.1 was examined and Exs.B1 to B4 were got marked.

9. The Tribunal after considering the evidence on record, held that the accident occurred due to rash and negligent driving of the Tractor bearing No.AP 7L 2170 and Trailer bearing No.AP 7L 2171 by its driver.

10. With regard to injuries, P.W.2 who examined the petitioner on 07-06-2001, found the following injuries:

1. Black eye left side.
2. Laceration of 16 x 4 cms over upper fore head scale deep bleeding present,
3. An abrasion of 2 x 1 cms over labella.
4. An abrasion of 3 x 1 cm over lower 1/3rd of left fore arm.

He opined that injury No.2 is grievous in nature. Taking into consideration the above injuries, the Tribunal awarded an amount of Rs.5,000/- for grievous injury and Rs.1,000/- each to two simple injuries. Thus in all, the Tribunal awarded an amount of Rs.7,000/- with interest at 6% p.a., from the date of petition till the date of deposit, vide impugned order. The liability was fixed as against respondents 1 and 2 and the Tribunal held that the Insurance Company cannot made liable to pay the compensation since the tractor was used for business purpose and violated the conditions of policy. Not satisfied with the compensation awarded by the Tribunal, the petitioner filed the present appeal.

11. The above facts clearly show that the petitioner sustained four injuries and out of which, one injury is grievous in nature. The case of the petitioner is that she was an inpatient for 12 days and she lost her earnings for nearly one and half months. Nothing was awarded towards pain and suffering and loss of earning during the period of hospitalisation. Thus, the amount of Rs.5,000/- awarded for the grievous injury is enhanced to Rs.10,000/- and an amount of Rs.5,000/- is awarded towards pain and suffering. Since the petitioner was in the hospital for

12 days and she could not be employed for one and half months, she is awarded an amount of Rs.2,000/- towards loss of earnings. Besides the said amount, an amount of Rs.2,000/- is awarded towards hospital charges, extra nourishment and attendant charges. Thus, in all the petitioner is awarded an amount Rs.19,000/- in place of Rs.7,000/- awarded by the Tribunal. The enhanced compensation amount carry same rate of interest at 6% p.a., from the date of petition till the date of realisation.

12. In view of the fact that the tractor and trailer was carrying coolies contrary to the terms and conditions of the policy, the Insurance Company could not be held liable and the finding recorded on this point is upheld.

13. Accordingly, the appeal is partly allowed. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 27-01-2016

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