

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHARA PRADESH

* * *

M.A.C.M.A.No.652 OF 2006

Between:

Shaik Mahaboob

..... Appellant

And

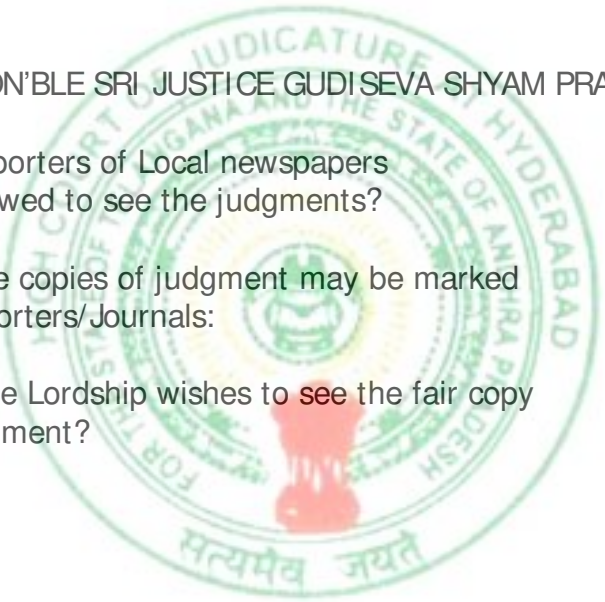
A.P. State Road Transport Corporation,
Main Road, Nizamabad and another.

..... Respondents

Date of Judgment pronounced on : 05.10.2017

HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

1. Whether Reporters of Local newspapers
May be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked
to Law Reporters/Journals: : Yes/No
3. Whether The Lordship wishes to see the fair copy
Of the Judgment? : Yes/No



HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

M.A.C.M.A.No.652 OF 2006

% 05-10-2017

Shaik Mahaboob

..... Appellant

Versus

\$ A.P. State Road Transport Corporation,
Main Road, Nizamabad and another.

... Respondents

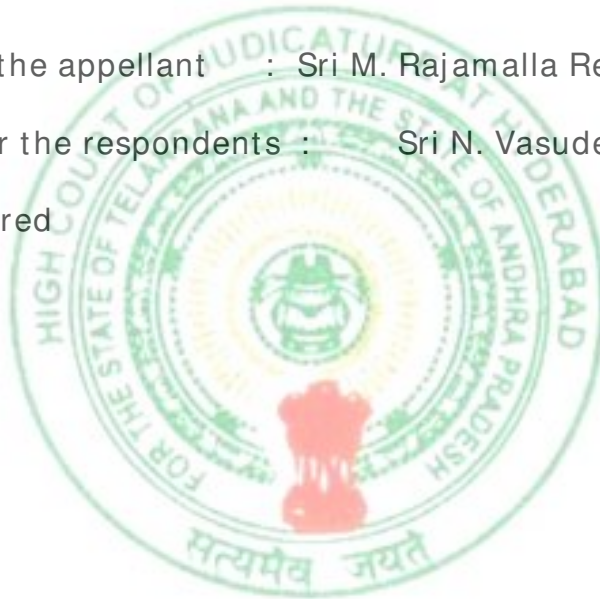
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> HEAD NOTE:

!Counsel for the appellant : Sri M. Rajamalla Reddy

^ Counsel for the respondents : Sri N. Vasudeva Reddy, SC

? Cases referred



HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**M.A.C.M.A. No.652 of 2006****JUDGMENT :**

This Civil Miscellaneous Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for brevity "the Act"), is preferred by the appellant-petitioner aggrieved by the judgment and decree dated 17.10.2005 in O.P.No.599 of 2000 passed by the Chairman, I Additional Motor Accidents Claims Tribunal, Nizamabad (for brevity "the Tribunal"), awarding compensation of Rs.29,000/- as against the claim of Rs.1,00,000/- made under Section 166 of the Act, for the injuries sustained by him in a motor vehicle accident that occurred on 22.11.1999.

2. The brief facts of the case are that on 22.11.1999 at about 2.00 p.m., while the appellant and others were going in a Jeep bearing No.AP 25T 7546 towards Mosra Village and when they reached near Gandhinagar, Nizamabad, the RTC Bus bearing No.AP 9Z 9113 belonging to the respondents-A.P. State Road Transport Corporation (for brevity "the Corporation") came from behind the Jeep in a rash and negligent manner and at high speed and dashed against the said Jeep, due to which the appellant received fracture injury to his right leg and ankle and injuries on both hands and head and multiple and grievous injuries to all over the body,

while the other inmates of the Jeep received multiple and grievous injuries. Immediately, the appellant was shifted to Government Headquarters Hospital, Nizamabad, for treatment and from there to a Private Hospital for further treatment. The appellant laid a claim for Rs.1,00,000/- against the respondents-Corporation for the injuries sustained by him in the said accident.

3. The respondents-Corporation contested the said claim stating that the appellant has not filed any injury or permanent disability certificate in support of his claim and that the claim is excessive and highly exorbitant.

4. On consideration of the rival contentions and the documentary evidence under Exs.A.1 to A.7 filed on behalf of the appellant, the Tribunal awarded a compensation of Rs.29,000/- with simple interest @ 9% per annum from the date of petition till the date of deposit with a further direction to deposit the amount within 30 days from the date of award. Aggrieved by the same, the appellant-petitioner has filed the present appeal.

5. Heard Sri M. Rajamalla Reddy, learned counsel for the appellant-petitioner, as well as Sri N. Vasudeva Reddy, learned Standing Counsel for the respondents-Corporation and perused the material and evidence available on record.

6. Learned counsel for the appellant-petitioner submits that the Tribunal has not considered the permanent disability suffered by the appellant at 50% as per Ex.A.4 – Disability Certificate. He further submitted that though the appellant filed Exs.A.3 to A.5 and A.7, which are Wound Certificate, Disability Certificate, Discharge Certificate and X-Ray film, respectively, the Tribunal did not consider the said documents and permanent disability sustained by the appellant at 50% for awarding compensation. The learned counsel also submits that the compensation awarded by the Tribunal for the injuries sustained by the appellant is inadequate.

7. On the other hand, learned Standing Counsel for the respondents-Corporation submits that the Tribunal has awarded Rs.20,000/- for 2 grievous injuries and two simple injuries. He would further submit that the Tribunal has awarded Rs.5,000/- towards pain and suffering and that it disbelieved Ex.A.4 - Disability Certificate as it was issued 2 years 2 months after the accident had occurred and, therefore, the compensation awarded by the Tribunal is reasonable and adequate.

8. On consideration of the rival contentions of the respective parties and the material on record, the only point that arises for consideration in this appeal is, whether the

compensation awarded by the Tribunal is just and reasonable.

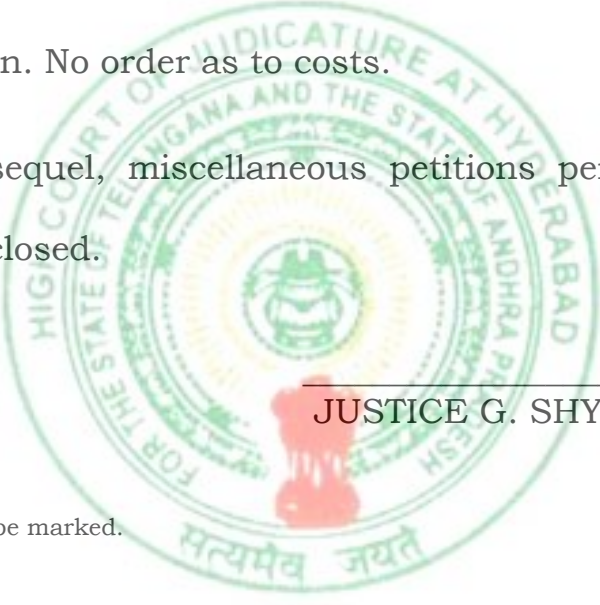
9. The contention of the learned counsel for appellant that the appellant is entitled to compensation for 50% disability cannot be countenanced in view of the finding of the Tribunal that the Disability Certificate was issued 2 years 2 months after the accident. However, the appellant is entitled for enhancement of compensation towards the injuries suffered by him. Therefore, keeping in view the facts and circumstances and the evidence on record, this Court is of the considered view that the appellant is entitled for enhancement of compensation under the head ‘pain and suffering’.

10. Thus the compensation awarded by the Tribunal under various heads is enhanced as mentioned below:

Compensation towards	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.
1. Injuries	20,000.00	40,000.00
2. Pain & suffering	5,000.00	25,000.00
3. Medical & extra-nourishment	2,768.00	5,000.00
4. Transport expenses	500.00	1,000.00
5. Damage to clothing	500.00	500.00
Rounded off total :	29,000.00	71,500.00

11. In the result, the Civil Miscellaneous Appeal is allowed in part, enhancing the amount of compensation awarded by the Tribunal from Rs.29,000/- to Rs.71,500/- (Rupees seventy one thousand five hundred only) with interest @ 9% per annum from the date of petition till the date of realization. The respondents-Corporation is directed to deposit the compensation amount within one month from the date of receipt of a copy of the judgment. On such deposit, the appellant is permitted to withdraw the entire amount of compensation. No order as to costs.

12. As a sequel, miscellaneous petitions pending, if any, shall stand closed.



JUSTICE G. SHYAM PRASAD

05.10.2017.

NOTE: L.R. Copy be marked.
(B/O)
Msr

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.652 of 2006



05.10.2017
Msr