

HON'BLE MRS. JUSTICE ANIS

M.A.C.M.A.NO.2640 OF 2011

JUDGMENT:

This appeal is filed by the appellants/respondents 1 and 2- APSRTC under Section 173 of the Motor Vehicles Act,1988 (for short "M.V.Act") aggrieved by the award dated 30-06-2011 passed by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Visakhapatnam in O.P.No.911 of 2009, awarding compensation of Rs.8,25,350/- to the respondent/petitioner.

2. The above said O.P is filed under Section 166 of the Act read with Rule 455 of the A.P. Motor Vehicle Rules by the petitioner claiming compensation of Rs.10,00,000/- for the injuries sustained by him in a motor vehicle accident that occurred on 24-11-2007.

3. The brief averments made in the petition are that on 24-11-2007 when the petitioner was going on his Hero Honda motor cycle along with his family to Pathapatnam from his native village Dimili and when he reached the H.P,.as godown at Parlakamidi at about 2.30 P.M one APSRTC bus bearing No.AP 11 Z 2496 driven by its driver in a rash and negligent manner without blowing horn came and dashed the motor cycle of the petitioner. As a result of which, the petitioner fell down on the road and the rear left wheel of the bus ran over his left leg. He sustained grievous injuries in the said accident. Immediately, he was taken to District Head Quarters Hospital of Parlakamidi and from there he was shifted to Vishnavi Hospital,

Visakhapatnam on 25-11-2007 for better treatment. The left leg of the petitioner was completely amputated in the hospital. Later, he was discharged from the hospital on 10-12-2007. According to the petitioner, the said accident was occurred due to the rash and negligent driving of the driver of the RTC bus. Police registered a case in Cr.No.139 of 2007 under Section 279, 337 and 338 of the Indian Penal Code,1860 against the driver of the bus. The petitioner is working in Courier Travel Service and earning Rs.5,000/- per month and he is the sole bread winner of his family. Finally he pleaded that the respondents are jointly and severally liable to pay compensation to the petitioner and claimed compensation of Rs.10,00,000/-.

4. 2nd respondent filed a counter, which was adopted by the 1st Respondent. The brief averments made in the counter read as under:-

Respondents 1 and 2 put the petitioner to prove the manner of the accident, age and income of the petitioner as well as injuries sustained by him in the accident. It is also specifically denied that the accident occurred due to the rash and negligent driving of the RTC bus by its driver. Further, it is pleaded that the claim petition is bad for non-joinder of necessary party to the proceedings and further pleaded that the petitioner himself tried to overtake the RTC bus from its left side negligently and in the said process, he came into contact with the bus and fell down, thereby sustained injuries. Further, it is pleaded that the accident occurred only due to the rash driving of the petitioner himself. Finally, pleaded that the compensation claimed by the

petitioner is high and excessive and prayed the Court to dismiss the petition.

5. Basing on the above pleadings, the Tribunal framed three issues and to substantiate the claim of the petitioner Pws.1 to Pw.3 were examined and marked Exs.A-1 to A-10. On behalf of the respondents, Rw.1 was examined and no exhibits were marked.

6. After considering the oral and documentary evidence, the Tribunal held that the accident was occurred only on account of rash and negligent driving of the APSRTC bus by its driver and awarded compensation of Rs.8,25,350/- with interest @ 7.5% per annum from the date of petition till date of realization.

7. Aggrieved by the order of the Tribunal, the respondents 1 and 2 preferred the present appeal.

8. The learned counsel for the appellants argued that there is no rash and negligent driving on behalf of the driver of the RTC bus. The petitioner himself is responsible for the accident. Moreover, the compensation granted by the Tribunal is high and excessive.

9. On the other hand, the learned counsel for the respondents argued that in the accident the petitioner lost his left leg. He was bedridden and unable to maintain to his family. Therefore, considering the evidence on record, the Tribunal rightly awarded just and reasonable compensation and the said findings of the Tribunal needs no interference and prayed the Court to dismiss the appeal.

10. Having regard to the submissions made by both counsel, the only point that arises for consideration is:-

“Whether the appellants have made out any case to set aside the award dated 30-06-2011 passed by the Chairman, Motor Accident Claims Tribunal-cum-II Additional District Judge, Visakhapatnam in O.P.No.911 of 2009?

11. POINT:-

A perusal of the evidence produced by the petitioner and documentary evidence, there is no dispute about the manner of the accident in which the petitioner sustained grievous injury i.e., amputation of his left leg due to rash and negligent driving of the driver of the APSRTC bus and the said findings needs no interference. It is also evident from the documents produced by the petitioner-claimant that the police immediately after the accident, registered a case against the driver of the RTC Bus and came to a conclusion, during their enquiry, that driver of the RTC bus is alone responsible for the accident. Admittedly, in the accident the petitioner sustained grievous injury and his left leg was amputated. Further, it is also the evidence of petitioner that at the time of accident he is working in courier service office and earning Rs.5,000/- per month and he is the sole breadwinner of his family. Due to the accident, he was bedridden and unable to maintain his family. Therefore, after having considered all the above aspects into consideration, the Tribunal rightly granted just and reasonable compensation and the said findings of the Tribunal needs no interference and the appellants have not made

out any case and, therefore, the appeal deserves to be dismissed.

Accordingly, the appeal is dismissed. No order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

ANIS, J

13.09.2017
TSNR

