THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No. 1396 of 2010

JUDGMENT:

Aggrieved by the order dated 03.10.2008 passed in O.P.No.28 of 2004 by the Motor Accidents Claims Tribunal-cum-IV Additional District and Sessions Judge (FTC), Ranga Reddy District (for short 'the Tribunal'), the appellant-APSRTC filed this appeal.

2. Brief facts of the case are that on 30.07.2003 while the claimant was going along with his family members and a friend in a Maruti Car bearing No.AP-9H-5866 from Hyderabad to Bhadrachalam and reached near Kodada cross roads, one RTC bus bearing No.AP-10Z-7071 came in opposite direction, at a high speed, and dashed the Maruti car. The claimant sustained injuries in the accident. Alleging that the accident occurred due to the rash and negligent driving by the driver of the RTC bus, the claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.5,00,000/- against the respondent-RTC on account of the injuries sustained by the petitioner.

3. Respondent-RTC filed counter denying the allegations made in the claim petition.

4. On behalf of the petitioner, PWs.1 and 2 were examined, and documents Exs.A1 to A8 were marked. No evidence was adduced on behalf of respondent-RTC. The Tribunal, on consideration of the oral and documentary evidence, awarded compensation of

Rs.1,70,000/-. Aggrieved by the award passed by the Tribunal, the respondent-APSRTC has preferred this appeal.

5. Heard Sri V.Vasudeva Reddy, learned Standing Counsel for A.P.S.R.T.C. Learned counsel for the respondent-claimant is not present.

6. Learned Standing Counsel for APSRTC contended that the compensation awarded by the Tribunal is highly excessive as the Tribunal has taken into consideration the income of the claimant as Rs.7,000/- per month basing on his income tax returns. The income tax returns would show that the claimant was earning Rs.63,000/- per year, which is approximately Rs.5,000/- per month, but the Tribunal has taken the income of the claimant as Rs.7,000/- per month which is highly excessive, and therefore it requires to be reduced. Learned Standing Counsel further contended that the Tribunal has awarded Rs.65,000/- towards medical expenditure whereas the claimant has submitted medical bills to an extent of only Rs.17,155/-. It is argued that the award of Rs.65,000/- towards medical expenditure is highly excessive and disproportionate to the claim of medical bills.

7. As far as the contention with regard to the income of the claimant is concerned, there is no dispute with regard to the income tax returns submitted by the claimant before the Tribunal which show that the claimant was earning Rs.63,000/- per year. No doubt, approximately his income was around Rs.5,000/- per month but the Tribunal, on consideration of the fact that the claimant was doing

business, has taken into consideration future prospects of his business has taken the income of the claimant as Rs.7,000/- per month . It is natural that in business also there may be future prospects and there may be increase in the business every year. The Tribunal has rightly taken that aspect into consideration and taken the income of the claimant as Rs.7,000/- per month which is not highly excessive. In fact, the Tribunal has fixed the income of Rs.7,000/- per month on the basis of the income tax returns submitted by the claimant, and therefore, the same does not require any interference.

8. As far as the amount awarded towards medical expenditure is concerned, as a matter of fact, PW2 is the doctor who treated the claimant for the injuries he suffered in the accident. Ex.A6 is the medical bills produced by the claimant which are to the tune of Rs.17,155/-, which was accepted by the Tribunal. The Tribunal, apart from the medical bills, has also considered to grant amount towards extra nourishment and awarded Rs.65,000/-. However, the compensation of Rs.65,000/- towards medical expenditure appears to be on the higher side when the medical bills are supporting only an amount of Rs.17,155/-. Even if it is considered that an amount of Rs.20,000/- is awarded towards extra nourishment, it comes to Rs.37,155/- which can be rounded off to Rs.40,000/-. Therefore, having regard to the facts and circumstances of the case, I deem it appropriate to reduce the amount of Rs.65,000/- awarded towards medical expenditure to Rs.40,000/-.

9. In the result, the appeal is partly allowed by reducing the compensation awarded by the Tribunal from Rs.1,75,000/- to Rs.1,50,000/-. Rest of the order passed by the Tribunal shall remain intact. No costs. Miscellaneous Petitions, if any pending, shall stand closed.

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GUDISEVA SHYAM PRASAD, J

Date: 24.04.2017
ssp