

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No. 1864 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the erstwhile Andhra Pradesh State Road Transport Corporation, represented by its Managing Director, Musheerabad, Hyderabad, who is respondent No.2 in O.P. No.64 of 1998 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Khammam (for short, 'the Tribunal'), aggrieved by the order dated 19.04.2004, whereby the Tribunal granted compensation of Rs.1,00,000/- in favour of the claimant-respondent No.1 herein against the appellant and the driver of the crime vehicle-respondent No.2 herein, for the injuries sustained by the claimant in a motor accident occurred on 19.01.1997.

2. Today, there is no representation on behalf of the appellant-APSRTC. On earlier occasion also, *i.e.*, on 05.10.2017, there was no representation on behalf of the appellant. On that day, *i.e.*, on 05.10.2017, learned counsel for respondent No.1-claimant submitted his arguments. It is endorsed in the cause title of the grounds of appeal that respondent No.2 herein-driver of the RTC bus is not necessary party to this appeal.

3. For the sake of convenience, the parties hereinafter are referred to as they were arrayed before the Tribunal.

4. It is contended in the grounds of appeal that the Tribunal failed to see that when the RTC bus bearing No.AP 9Z 4682 reached Jeeldakunta Bridge, the petitioner, who was coming from coolie work along with his uncle by bicycle, without giving any caution to the driver of the bus

came and dashed against the RTC bus, as such, the petitioner was the victim of his own negligent act and absolutely, there was no negligence on the part of the driver of the RTC bus; the Tribunal erred in granting an amount of Rs.75,000/- towards head injury and its continuous effect, without there being any evidence; and the award of compensation of Rs.1,00,000/- is highly excessive and arbitrary. Ultimately, prayed to allow the appeal by setting aside the award passed by the Tribunal.

5. Learned counsel for the petitioner-respondent No.1 herein would submit that the petitioner suffered grievous injuries including head injury; the Tribunal while dealing with this matter, dealt the evidence and the documents elaborately and granted compensation of Rs.1,00,000/-, which is just and reasonable; there are no circumstances to interfere with the impugned order passed by the Tribunal; and ultimately, prayed to dismiss the appeal by confirming the order passed by the Tribunal.

6. In view of the grounds of appeal and the submissions made on behalf of the petitioner-respondent No.1 herein, the following points have come up for consideration:

(1) Whether the petitioner suffered injuries in the accident occurred due to the rash and negligent driving of the driver of the RTC bus bearing No.AP 9Z 4682?

(2) Whether the award of compensation of Rs.1,00,000/- by the Tribunal is highly excessive and arbitrary?

7. **POINTS:** To substantiate the case of the petitioner, he was examined as P.W.1 and got examined the doctor as P.W.2 and marked Ex.A.1-certified copy of F.I.R., Ex.A.2-certified copy of charge sheet, Ex.A.3-certified copy of wound certificate, Ex.A.4-certified copy of Motor

Vehicles Inspector's report, Ex.A.5-medical bills 24 in number amounting to Rs.14,316-75 ps and Ex.A.6-two X-ray films. There was no evidence on behalf of respondent No.2-APRTC and no documents were marked on its behalf. There is evidence of P.W.1 that he sustained injuries on stomach, hands, head, legs and other parts of the body, due to the accident caused by the driver of the RTC bus bearing No.AP 9Z 4682. Due to the injuries, he was in patient for about two months in Government Hospital, Tiruvur and thereafter, he was shifted to Government Hospital, Vijayawada, where he took treatment as inpatient for two months and nails were fixed. He spent Rs.50,000/- towards his treatment. He suffered from stomach-ache and he is unable to walk. Before the accident, he was earning Rs.100/- per day. There is evidence of P.W.2, who is the Professor of Surgery, about the admission of the petitioner in the hospital on 20.01.1997. He found irregular injury on abdomen (right side) of the petitioner, left index finger was broken and there were lacerated injuries on right thigh. There was developed dehiscence and faecal fistula. Sol the closure of ileum fistula was done. Even today, there is persistent with minimum discharge and now the petitioner feels inconvenience of faecal fistula, which is not yet closed. The petitioner has to suffer for life. There was need for another operation. Ex.A.3-certified copy of wound certificate issued by the Medical Officer working at Government Hospital, Tiruvur, corroborated with the evidence of P.W.1-petitioner and P.W.2-doctor. As per the evidence and the documents, the petitioner suffered the following injuries and the same are also mentioned in Ex.A.3-wound certificate:

- (1) Whole of upper leg swollen and bleeding from suis present;
- (2) An irregular abrasion of 3" x 2" dark red in colour is present over right side of abdomen in lower part and tenderness present

over lower abdomen and not able to pass urine and not able to stand. Advised X-ray of abdomen;

(3) Left index finger is broken at the top of lphadanx and hanging lose by skin attachment and bleeding on moving;

(4) A linear laceration of 2½" x 1/4" x 1/4" present over right finger in upper and anterior part.

8. The above medical evidence cannot be doubted. Relying on this medical evidence and the treatment as deposed by P.W.2, the Tribunal awarded compensation of Rs.75,000/- for injury and his continuous effect, Rs.15,000/- towards medical and transportation expenses as shown in Ex.A.5, Rs.5,000/- towards continuous pain that is being suffered by the petitioner and Rs.5,000/- towards future operation expenses. There is nothing wrong in considering Ex.A.5-medical bills and the said amount of Rs.15,000/- is quite reasonable. The Tribunal had rightly granted compensation of Rs.1,00,000/- in view of the grievous injuries, simple injuries and also prolonged treatment by the petitioner. Therefore, there is nothing to interfere with the compensation granted by the Tribunal.

9. There is specific evidence of the petitioner as P.W.1 and also the documents Ex.A.1-certified copy of F.I.R. and Ex.A.2-certified copy of charge sheet that the driver of the RTC bus bearing No.AP 9Z 4682 was prosecuted for the offences punishable under Sections 337 and 338 I.P.C. Though respondent No.2-APSRTC contended the rashness and negligence on the part of the petitioner, it did not adduce any oral or documentary evidence to substantiate the same. There is no evidence to uphold all the contentions raised by respondent No.2-APSRTC. The findings of the Tribunal are based on evidence. There is nothing to take a

different view. Therefore, the order passed by the Tribunal is liable to be confirmed in all respects. The appeal is devoid of merits and is liable to be dismissed. Both the points are answered accordingly.

10. In the result, this appeal is dismissed confirming the order and decree dated 19.04.2004 passed by the Tribunal in O.P. No.64 of 1998. There shall be no order as to costs.

11. Miscellaneous Petitions pending, if any, shall also stand dismissed.

Date: 20.10.2017
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Dr. SHAMEEM AKTHER, J