

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.63 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 ((for short 'the Act) by the appellant-injured claimant being dissatisfied with the quantum of compensation granted by the Chairman, Motor Accidents Claims Tribunal-cum-Additional District Judge, Visakhapatnam in O.P. No.1429 of 2001, dated 15.7.2003

The brief facts of the case are that on 12.3.2001 while the appellant along with others was proceeding towards Bheemunipatnam side from Visakhapatnam by his car bearing No. AP 31 Q 6599 and when he reached near Jodugullapalem, the bus belonging to the APSRTC bearing registration No. AP 9 Z 5987 being driven by the 1st respondent-driver came in a high speed and in a rash and negligent manner without blowing horn, in the opposite direction, and dashed the front portion of the car of the appellant. As a result of the same, the appellant sustained injury over forehead and head and the vision of the appellant also got affected in the accident. He was immediately shifted to CDR Hospital, Visakhapatnam where he had undergone treatment for some time and thereafter he took treatment in another hospital. His car also got damaged in the incident. A Criminal case was registered in Crime No. 147 of 2001 under Sections 337 and 338 of I.P.C. against the 1st respondent, the driver of the bus. The appellant, therefore, filed the aforementioned O.P. before the Tribunal claiming compensation of Rs. 3,00,000/- for the injuries sustained by him and for the damage caused to his car.

However, before the Tribunal, the claim against Respondent No.1 was dismissed as not pressed. While opposing the O.P., the 2nd

respondent filed its counter stating that the accident did not occur on account of the rash and negligent driving on the part of its driver. It is also stated that since the owner of the car and its insurer were not made parties, the petition is bad for non-joinder of parties and is not maintainable. Hence, the 2nd respondent-Corporation is not liable to pay any compensation amount. The third respondent, however, remained ex-parte.

Basing on the aforesaid pleadings, the Tribunal framed the following issues for trial:

1. Whether the accident occurred due to the rash and negligent driving of the vehicle bearing No. AP 9 Z5987 (bus) by its driver ?
2. Whether the petitioner is entitled for compensation, if so, to what amount and from whom ?
3. To what relief ?

In order to prove his case, the appellant got himself examined as P.W.1 besides examining the doctor, who treated him as P.W.2 and got marked Exs.A1 to A9. The appellant also examined the surveyor of the insurance company as P.W.3. On behalf of the respondent-Corporation, the driver of the bus got himself examined as R.W.1 and got marked Exs. X1 to X3.

The Tribunal on consideration of the oral and documentary evidence on record, granted an amount of Rs.28,000/- as compensation. Aggrieved, the appellant/claimant filed the present appeal.

Heard learned counsel for the appellant and the learned Standing Counsel for the respondents and perused the record.

Learned counsel for the appellant contended that even though the appellant filed the O.P. claiming compensation of Rs.3,00,000/- for the injuries sustained by him and for the damages caused to his car, the Tribunal has only granted a meagre amount of Rs.28,000/- as compensation, i.e., Rs.15,000/- towards damages of car; Rs.3,000/- towards extra nourishment, transport and incidental expenses, and Rs. 10,000/- towards pain and suffering, suffered by the appellant. Learned counsel for the appellant contended that though the appellant sustained grievous injuries and was hospitalised for 15 days, the Tribunal did not award any amount towards medical expenses and attendant charges. In support of this contention, learned counsel for the appellant relied on the judgment of this Court in Ullanki Kanaka Durgamma vs. Dantuluri Satyanarayana Raju and others¹.

In view of the rival contentions put forth by the parties, the point for determination is whether the appellant is entitled for enhancement of the compensation amount.

In so far as the injuries sustained by the appellant in the accident in question are concerned, there is evidence of P.W.2, the doctor who treated the appellant on record to show that the appellant had suffered head injury and multiple contrusions of brain and chronic subdural haemotoma. P.W.2 has specifically stated in his chief examination that the appellant can work without any difficulty and he did not suffer any permanent disability in the accident in question. Further, P.W.2 nowhere in his entire evidence stated that the appellant sustained grievous injuries.

Since the appellant himself admitted in para-26 of the petition that the medical expenses of the appellant are borne by his employer,

¹ 1997(1) ALD 658

the Tribunal was justified in not granting any amount on this count. In so far as the contention of the appellant that the Tribunal awarded a meagre amount of Rs. 3,000/- towards extra nourishment, transport and incidental expenses and Rs.10,000/- towards pain and suffering is concerned, since the injuries sustained by the appellant are simple in nature and the appellant did not suffer any permanent disability, no further amount is required to be granted in favour of the appellant. Though the appellant has stated that he was hospitalized for 15 days, he did not file any documentary evidence to prove the same. In so far as loss of earnings is concerned, since there is no evidence on record to show that the appellant did not work for a considerable period on account of the injuries sustained by him, he is not entitled for any compensation towards loss of earnings.

In so far as the damages claimed by the appellant with regard to the damages caused to his car in the accident in question is concerned, it is the evidence of P.W.3, the surveyor of the insurance company that as per Ex.X2, survey report, the damage to the car was assessed at Rs. 2,65,000/-. With regard to damage to car the Tribunal granted just compensation, warrants no interference. Hence, no further amount is required to be granted on this count.

Therefore, I am of the opinion that the Tribunal has awarded just and reasonable compensation. There are no valid grounds to enhance the compensation amount. The civil miscellaneous appeal is devoid of merits and is accordingly dismissed. No costs.

Dr. SHAMEEM AKTHER, J

DATE: 4th August, 2017
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