

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

M.A.C.M.A.No.499 of 2010

JUDGMENT:

This appeal is arising out of the order dated 04.09.2008 in O.P.No.2135 of 2006 on the file of Motor Accidents Claims Tribunal-cum-XII Additional Chief Judge (F.T.C.), Hyderabad. The appellants herein are A.P.State Road Transport Corporation and its Managing Director, who are respondents in O.P.No.2135 of 2006.

Respondent filed the above O.P, under Sections 163-A and 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), claiming compensation of Rs.2,40,000/- for the injuries sustained by him in a motor accident that took place on 09.06.2006. The Tribunal awarded compensation of Rs.75,000/-. The appellants challenging the liability, and also quantum of compensation, filed this appeal.

The points for consideration in this appeal are:

- i. Whether there is contributory negligence on the part of the rider of the motor cycle in the accident?
- ii. Whether the quantum of compensation awarded by the Tribunal is excessive?

Heard Sri N.Vasudeva Reddy, learned counsel for the appellants. None appeared on behalf of respondent though Sri Kishore Kumar, learned counsel, made appearance on their behalf.

Learned counsel for the appellants submits that this is a case of head-on-collision and the motor cycle in which the

claimant – respondent was travelling as a pillion rider hit against the bus and therefore, there is contributory negligence on the part of the driver of the motorcycle. It is further submitted that, as no eye-witness was examined by the respondent, there is contributory negligence by the rider of the motorcycle but the Tribunal found that there is negligence on the part of the driver of the APSRTC bus.

The Tribunal relied on Ex.A.1, certified copy of FIR, and Ex.A.2, certified copy of charge sheet, and evidence of PWs.1 and 2, and came to the conclusion that the driver of APSRTC bus had driven the vehicle in a rash and negligent manner and attributed negligence to the driver of the bus. Therefore, I do not see any valid grounds to interfere with regard to rash and negligent driving by the driver of APSRTC bus. Issue No.1 is answered in favour of the respondent.

The other contention raised by the appellants is that the compensation awarded by the Tribunal is excessive.

As a matter of fact, the Tribunal awarded Rs.95,000/-, which includes pain and suffering Rs.75,000; medical expenses Rs.10,000/-; and loss of earnings Rs.10,000/-.

Learned counsel for the appellant submits that the Tribunal awarded Rs.75,000/- for a grievous injury. The Tribunal has awarded compensation based on the evidence of medical officer, PW.2, who stated that the injured – PW.1 sustained comminuted fracture to his leg. Ex.A.3, certified

copy of medico legal record, reveals that the claimant sustained comminuted fracture to his leg which was grievous in nature. The Tribunal has rightly considered the gravity of injury and awarded an amount of Rs.75,000/-. That amount also includes pain and suffering. The Tribunal has not awarded any compensation under the heads attendant charges, transport charges, extra nourishment separately. Even those charges can be included under the head 'pain and suffering'. Therefore, the award passed by the Tribunal granting an amount of Rs.75,000/- for a comminuted fracture cannot be considered to be unjust compensation and it does not require any interference. Considering the facts and circumstances of the case, I do not see any valid ground to interfere with the award of the Tribunal.

In the result, the appeal is dismissed confirming the award passed by the Tribunal.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

G.SHYAM PRASAD,J

Date:18.01.2017
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