

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A. No.1173 OF 2010

JUDGMENT:

This Motor Accident Civil Miscellaneous Appeal is arising out of the order, dated 04.06.2009, passed in M.V.O.P.No.345 of 2007 by the Chairman, Motor Accidents Claims Tribunal (I Additional District Judge), Ongole, (for short, the Tribunal).

2. The respondent herein filed M.V.O.P.No.345 of 2007 before the Tribunal claiming compensation of Rs.1,50,000/- for the injuries sustained by him in a motor accident that occurred on 16.04.2007.

3. The brief facts of the case are that on 16.04.2007 while the respondent was going in an auto bearing No.AP27W 6144, and when the auto stopped near fire station at Tangutur at about 9.00 am., the driver of the RTC bus bearing No.AP10Z 155 while proceeding from Ongole to Kandukur, drove the bus in a rash and negligent manner and dashed against the stationed auto. In the said accident, the respondent sustained several injuries on his body and claimed compensation of Rs.1,50,000/- under various heads.

4. Before the Tribunal, the appellant filed its counter opposing the claim of the respondent. The Tribunal, on consideration of oral and documentary evidence, awarded

compensation of Rs.80,000/- out of which Rs.25,000/- towards pain and suffering, Rs.30,000/- towards medical expenses and Rs.25,000/- towards 20% permanent disability. Being dissatisfied with the quantum of award, the appellant is before this Court.

5. Heard the arguments of Sri P.Durga Prasad, learned Standing Counsel for the appellant and Sri N.Madhava Rao, learned counsel for the respondent.

6. The points for consideration in this matter are:

- (i) Whether there is contributory negligence on the part of the injured in the accident? and
- (ii) Whether the Tribunal has granted excessive compensation?

Point No.1:

7. Learned Standing Counsel for the appellant submits that there is contributory negligence on the part of the respondent. He further submitted that the Tribunal, placing reliance on the evidence of P.W.1, R.W.1 and the documents Ex.A.1 FIR and Ex.A.3 attested copy of the charge sheet and came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the bus. He further submitted that R.W.1 stated in his evidence that after the accident, he informed the same before the Police, but the Police did not take his report.

8. The Tribunal has considered the evidence of P.W.1 and the documents Exs.A.1 and A.3 and rightly came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the bus. Therefore, no interference is required in the orders passed by the Tribunal holding the liability against the appellant APSRTC.

Point No.2:

9. Learned counsel for the appellant further contended that the Tribunal has granted excessive compensation. In fact, it is a case of two grievous injuries and two simple injuries and the Tribunal awarded only Rs.25,000/-, which cannot be considered as excessive compensation. In fact, the learned counsel for the respondent submitted that they did not prefer appeal for enhancement of the compensation, though the compensation awarded by the Tribunal is very meager.

10. On consideration of the nature of injuries and the nature of treatment undergone by the respondent, the compensation awarded by the Tribunal is not at all excessive. Therefore, I do not see any valid grounds to interfere with the findings of the Tribunal.

11. In the result, the appeal is dismissed. The award of the Tribunal dated 04.06.2009, passed in M.V.O.P.No.345 of 2007 is confirmed.

12. As a sequel, miscellaneous petitions, if any, pending shall stand closed. There shall be no order as to costs.

GUDISEVA SHYAM PRASAD, J

Date: 23.02.2017
TJMR

