

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

C.M.A. No.4793 OF 2004

JUDGMENT:

Not being satisfied with the quantum of compensation of Rs.26,000/- awarded in M.V.O.P. No.704 of 2000, dated 1.9.2004, on the file of the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-VI Additional District Judge (Fast Track Court), Guntur, (for short, 'the Tribunal') as against Rs.85,000/-, filed under Sections 163-A and 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') and the Rule 455 of A.P.M.V. Rules, the claimant preferred the present appeal under Section 173 of the Act seeking enhancement of compensation.

2. Heard Sri N. Subba Rao, the learned counsel for the appellant, and perused the material available on record.

3. For the sake of convenience, the parties will hereinafter be referred to as arrayed before the Tribunal.

4. The facts in issue are as under:

The claimant/appellant filed an application under Sections 163-A and 166 of the Act and Rule 455 of A.P.M.V. Rules, claiming compensation of Rs.85,000/- (Rupees Eighty five thousand only) as he sustained injuries in a motor accident that took place on 2.5.2000. On the said day, while the claimant (pillion rider) was proceeding on Luna bearing No.AP-7C-574, an

APSRTC bus bearing No.AP-10-Z-5914 came from opposite direction being driven by its driver in a rash and negligent manner and high speed dashed against the Luna. As a result, the claimant sustained injuries to his right hand and caused partial permanent disability. After the incident, he was taken to Government Hospital, Tenali for treatment, and thereafter, went to Private Nursing Home of Dr. Hanumantha Rao at Tenali. In respect of the above incident, a case in Crime No.150 of 2000 of Tenali III-Town P.S. was registered for the offence punishable under Section 337 of I.P.C. It is stated that the claimant (injured) was aged about 50 years and earning Rs.2,000/- per month by kirana business. Since the accident took place due to rash and negligent driving by the driver of the crime vehicle, the claimant filed M.V.O.P. No.704 of 2000 on the file of the Motor Vehicles Accidents Claims Tribunal-cum-VI Additional District Judge (Fast Track Court), Guntur, claiming compensation of Rs.85,000/- for the injuries sustained in the said accident.

5. The respondent-Corporation filed a counter denying the material averments in the petition and also the manner in which the accident took place contending that the injuries received were due to negligence on the part of the claimant and not due to rash and negligent driving of APSRTC Bus and the claimant was not earning money as claimed and, therefore, to dismiss the petition.

6. Basing on the above pleadings, the Tribunal below framed the following issues for trial:

- (1) Whether the accident occurred due to rash and negligent driving of the driver of bus bearing No.AP-10-Z-5914?
- (2) Whether the petitioner is entitled to compensation and if so, to what amount and from whom?
- (3) To what relief?

7. In support of the claim, the claimant himself examined as P.W.1 and got examined the Doctor as P.W.2, apart from marking Exs.A1 to A9. On behalf of the respondent, R.W.1 was examined and no documents were marked.

8. After considering the oral and documentary evidence available on record, the Tribunal granted compensation of Rs.26,000/- with simple interest at 9% per annum from the date of petition till the date of deposit with proportionate costs.

9. The short question involved in the present appeal is, whether the compensation of Rs.26,000/- awarded by the Tribunal for the injuries sustained by the appellant in a road accident by order dated 1.9.2004 in M.V.O.P. No.704 of 2000 by the Tribunal is reasonable, just and fair, or very meagre as contended by the learned counsel for the appellant.

10. There is no representation for the respondent – A.P. State Road Transport Corporation.

11. The injury sustained by the claimant was ‘communitied fracture of the radius right forearm’ and of course declared as grievous in nature by P.W.2, with whom he was taken treatment after having treated at Government Hospital. Relevant documents were marked. The tribunal, fixing the age as 55 years and income at Rs.2,000/- per month, adopted the multiplier ‘8’ and arrived at Rs.1,76,000/-, towards 10% disability as spoken to by P.W.2 and arrived at Rs.17,600/-, but keeping in view the petitioner’s claim is limited to Rs.15,000/- towards disability, perhaps, keeping in view that an amount of Rs.15,000/- was inadequate and even under No Fault Liability an amount of Rs.25,000/- is fixed by the statute and, hence, the said amount was awarded.

12. The learned counsel for the appellant, Sri N.Subba Rao, submits that the Tribunal below did not award any amount towards other components, and, in fact the Tribunal ought not to have passed award on ‘no fault liability’ and ought to have assessed the income under each head and ought to have granted the amount, it being ‘communitied fracture of the radius right forearm’ in the present case.

13. So far as the income is concerned, there is no income proof that the petitioner was earning more than Rs.2,000/-, but the relevant multiplier even according to the Hon’ble Apex Court ruling in **Sarla Verma v. Delhi Transport Corporation**¹ as ‘11’. Therefore, multiplier ‘11’ when applied, 10% disability would work out to

¹ 2009 ACJ 1298 (SC)

Rs.24,400/-. Besides the same, a sum of Rs.3,000/- towards medicines claimed by the petitioner as awarded by the tribunal is undisturbed and a sum of Rs.10,000/- shall be awarded as against Rs.6,000/- awarded by the Tribunal towards pain and suffering, keeping in view the injuries sustained a sum of Rs.5,000/- is awarded towards extra nourishment, a sum of Rs.6,000/- is awarded towards attendant charges for a period of three months i.e., Rs.2,000/- x 3 months and a sum of Rs.1000/- is awarded towards transportation charges. Thus, the petitioner is entitled to 49,400/-, which is rounded to Rs.50,000/- (Rupees Fifty thousand only).

14. In the result, the Appeal is partly allowed by enhancing the compensation from Rs.26,000/- (Rupees Twenty six thousand only) to Rs.50,000/- (Rupees Fifty thousand only) against the respondent Corporation. The rate of interest at 9% p.a. granted by the tribunal on Rs.26,000/- is maintained but the enhanced amount of Rs.24,000/- will carry interest at the rate of 7.5% p.a., from the date of claim petition till the date of realization. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Civil Miscellaneous Appeal shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 08.08.2017
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