

THE HON'BLE SMT. JUSTICE ANIS

M.A.C.M.A. No. 1353 OF 2010

JUDGMENT:

This appeal is filed by the appellant/petitioner under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the award dated 23.04.2010 passed by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Guntur, in O.P. No.63 of 2007 awarding compensation of Rs.3,25,379/-.

2. The claimant filed the above O.P. under Section 166 of the Act, claiming compensation of Rs.7,00,000/- on account of the injuries sustained in a motor vehicle accident.

3. For the sake of convenience, the parties are referred to as arrayed in the O.P. before the Tribunal.

4. The brief averments made in the petition are as follows:

On 25.11.2006 while the petitioner was travelling in APSRTC Bus bearing No. AP-11/Z-739 from Guntur to Chilakaluripet and when the bus reached near Thimmapuram-Nadendla Cross Roads at about 4.45 a.m. the driver of the bus drove it in a rash and negligent manner and dashed against a stationed lorry bearing No.AP-7/V-3438, as a result of which the petitioner sustained grievous injuries. Immediately he was shifted to Government Hospital, Guntur and from there to Amaravathi Institute of Medical Sciences,

Guntur, where he underwent treatment and several operations were conducted. The police Edlapadu registered a case in Cr. No. 140 of 2006 against the bus driver.

5. The petitioner stated that he is aged about 37 years, was hale and healthy and was working as transport contractor earning Rs.1,03,000/- per annum and due to the disability, he has lost earning power and, therefore, he filed present application claiming compensation of Rs.7,00,000/-.

6. The respondent filed written statement putting the petitioner to prove manner of accident, his age and income and stated that the petitioner has not suffered any permanent disability as he received only simple injuries and finally stated that the claim of the petitioner is high and excessive and prayed the court to dismiss the petition.

7. Basing on the pleadings, the Tribunal framed three issues and to substantiate the claim, the petitioner himself was examined as PW-1 and also examined PWs-2 to 6 and Exs. A-1 to A-17 were marked. Exs. X-1 to X-6 were also marked. Neither oral nor documentary evidence was adduced on behalf of the respondent.

8. On an overall appreciation of evidence, the Tribunal held that the accident occurred due to rash and negligent driving of the driver of RTC bus bearing registration No.AP-11/Z-739 and awarded compensation of Rs.3,25,379/- along with interest at 7.5% per annum.

9. Not satisfied with the compensation awarded by the Tribunal, the petitioner preferred the present appeal.

10. Learned counsel for the petitioner/appellant argued that in the accident, the petitioner suffered grievous injuries which resulted in different permanent disabilities, as stated by the doctors PWs. 2 to 5 and the trial court without considering their evidence has taken the disability as 10% only and awarded meagre amount. It is also argued by the learned counsel for the petitioner that the petitioner was hospitalised and spent huge amount towards medical expenses and extra nourishment, etc. and, therefore, prayed the court to enhance the compensation.

11. On the other hand, learned counsel for the respondent - corporation contended that after considering the evidence of PWs. 2 to 6, the Tribunal has rightly fixed the disability at 10% and awarded just and reasonable compensation. It is further argued that the treatment taken by the petitioner in Government Hospital, Guntur is free of cost and, therefore, no further amount need be enhanced and prayed to dismiss the petition.

12. Having regard to the submissions made by both the learned counsel, the points that arise for consideration are:

1. Whether the appellant/petitioner is entitled for enhancement of compensation?
2. Whether the compensation awarded by the Tribunal is just and reasonable?

13. A perusal of the evidence shows that the accident occurred due to rash and negligent driving of the driver of RTC bus bearing No.AP-11/Z-739.

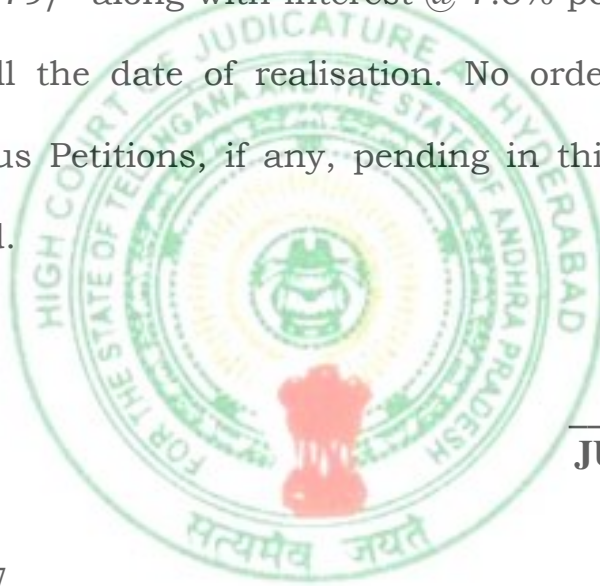
14. The petitioner contended that he has sustained grievous injuries in the accident which have caused permanent disability to him. The Tribunal, having considered the evidence of PWs. 2 to 5, the doctors who treated the petitioner for different injuries, held that due to the injuries the petitioner has not suffered any major disability. As per the evidence of PW-2, the disability is assessed at 10% and the Tribunal by taking relevant multiplier of '15', has awarded a sum of Rs.1,40,379/- towards permanent disability and also awarded Rs.15,000/- towards pain and suffering. The Tribunal further awarded Rs.1,50,000/- towards medical expenditure basing on the documentary evidence produced by the petitioner. The Tribunal further awarded Rs.10,000/- towards extra nourishment and special diet and a sum of Rs.10,000/- towards transportation charges. Thus, the Tribunal after perusing evidence of PWs. 1 to 6, in all, awarded just and reasonable compensation of Rs.3,25,379/- to the petitioner.

15. Learned counsel for the petitioner contended that due to the injuries sustained by the petitioner, as he has undergone treatment even after the treatment at Amaravathi Institute of Medical Sciences, Guntur, he is entitled for further amount

towards medical expenses and extra nourishment. Heard learned counsel appearing for the respondent in this regard.

16. Considering the nature of injuries and the evidence put forth by the petitioner, a further sum of Rs.25,000/- is awarded to the petitioner towards further medical expenditure and extra nourishment.

Therefore, in view of the above discussion, the appeal is partly allowed enhancing the compensation of Rs.3,25,379/- to Rs.3,50,379/- along with interest @ 7.5% per annum from this date till the date of realisation. No order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.



JUSTICE ANIS

3rd August, 2017
MAS

THE HON'BLE SMT. JUSTICE ANIS



M.A.C.M.A No. 1353 OF 2010

Dated: 03rd August, 2017

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