

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

M.A.C.M.A. No. 1532 of 2010

JUDGMENT:

This appeal is arising out of the Order dated 12.11.2009 passed in MVOP No.291 of 2007 on the file of the Motor Accidents Claims Tribunal-cum-Chief Judge, City Civil courts, Hyderabad.

2. Brief facts of the case are that on 30.05.2005, at about 7:00 PM, the petitioner-claimant traveled from Wanaparthi to Kethapally village in bus bearing No.AP 11Z 5092 and got down from the bus. While she was going to her house, the said bus dashed against her. She fell down on the road and received grievous injuries all over her body. She had taken treatment in Government Area Hospital, Wanaparthi and later she was shifted to Kurnool General Hospital, and then to NIMS, Hyderabad, for better treatment. She sustained fracture of Prox-humerus with degloving injury over right arm and right chest wall with L1 Wedge compression with multiple rib fracture and admitted in the hospital on 30.05.2005 as inpatient and underwent operation on 19.07.2005 and discharged on the same day. The police registered a case in Crime No.50 of 2005 for the offences punishable under Sections 337 and 338 of IPC against the driver of the bus. The petitioner was aged 45 years and she was an agriculturist and she used to earn more than Rs.3,000/- per month. Therefore, she filed a petition against the respondents-APSRTC claiming compensation of Rs.2,00,000/-. The respondents filed counter denying the allegations in the petition and the petitioner was put to strict proof regarding age, occupation and manner in which the accident occurred and the treatment undergone by her in various hospitals. The Tribunal, on consideration of the evidence, has awarded compensation of Rs.1,50,581/- with

proportionate costs and interest at 9% per annum. Being aggrieved by the quantum of compensation awarded by the Tribunal, the APSRTC filed this appeal.

3. Heard the arguments of Sri P.N. Vasudeva Reddy, learned counsel for the appellants-RTC; and the learned counsel representing Sri B. Narayan Reddy, learned counsel on record for the claimant.

4. Learned counsel for the appellants-RTC mainly contended that there is no rash and negligent act on the part of the driver of the RTC bus. The allegation of rash and negligence is not proved by the claimant.

5. Learned counsel for the respondent-claimant submits that the Tribunal held that there is rash and negligent act on behalf of the driver of the RTC bus, basing on the evidence available on record and, therefore, the finding of the Tribunal does not require any interference.

6. The Tribunal, basing on the evidence of PW1-injured eye witness, and the documents Ex.A1-CC of FIR, and Ex.A2-CC of Charge sheet, came to the conclusion that the accident occurred due to rash and negligent driving by the driver of the RTC bus.

7. PW1 is the injured eye witness. She stated that on 30.05.2005, at about 7:00 PM, while she got down from the RTC bus bearing No.AP-11Z-5092 and was about to go to her house, the driver of the bus had moved the bus without seeing the front side, in a rash and negligent manner, and dashed her and she fell down and received injuries in the accident.

8. The testimony of PW1, coupled with documents Exs.A1 and A2 clinchingly prove that the accident occurred due to the rash and negligent driving by the driver of the RTC bus. Therefore, I do not see any valid grounds to interfere with this finding of the Tribunal.

9. Learned counsel for the appellants-RTC contended that the quantum of compensation awarded by the Tribunal is excessive, including the rate of interest at 9% per annum, and requested to reduce the same.

10. Learned counsel for the respondent-claimant submits that the Tribunal has considered the medical evidence of PW2 and medical records i.e., Ex.A3-CC of MLC Report, Ex.A5-Discharge Summary dt.04.06.2005, Ex.A6-Out Patient medical record dt.27.09.2005, Exs.A7 and A8-Out Patient Cards dt. 20.11.2007, Ex.A10-Medical prescriptions, Ex.A11-Medical bills, Ex.A12-X-Ray films, Ex.A13-Disability Certificate issued by PW2, Ex.A14-CC of Disability certificate issued by Medical Board, Mahaboobnagar, and awarded the compensation. PW2-medical officer who treated PW1 has clearly deposed about the nature of treatment given to PW1 and also the medical expenditure incurred by her. The Tribunal, on considering all these aspects, awarded appropriate compensation, and there are no valid grounds to interfere with the quantum of compensation awarded by the Tribunal.

11. As far as the rate of interest is concerned, in view of the decision in Dharampal and others v. U.P. State Road Transport Corporation¹, the rate of interest can be reduced from 9% per annum to 7.5% per annum.

¹ MANU/SC/7680/2008

12. In the result, the appeal is partly allowed, by modifying the award to the extent of reducing the interest from 9% per annum to 7.5% per annum from the date of petition till realisation. The rest of the award shall be intact.

No costs. Miscellaneous petitions, if any pending in this appeal, shall stand closed.

GUDI SEVA SHYAM PRASAD, J

21st March, 2017

KSM



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