

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

MACMA.No. 424 of 2010

JUDGMENT:

The appellant is the petitioner/ claimant in MVOP.No.14 of 2005 on the file of the Motor Accidents Claims Tribunal –cum-X Additional District Judge, Krishna, Machilipatnam, claiming Rs.2,00,000/- for the injuries said to have been sustained by him in an accident that is said to have taken place on 01.10.2004 at about 10.00 a.m. near Gandhi Bomma Centre, Kaikalur.

2. The brief facts of the case are that the claimant was a fruit vendor and on the date of accident, according to her, she was proceeding in a rickshaw to purchase *Guava* fruits and at that time the RTC-Bus, bearing No.AP10Z8232, driven by the 1st respondent and owned by the 2nd respondent came from behind in a rash and negligent manner and hit the rickshaw from backside, due to which the rickshaw was fully damaged and dragged to a distance of five yards, and the claimant sustained severe injuries. Thereafter, the rickshaw puller along with others taken her to the Government Hospital, Kaikalur for treatment, where the police recorded her statement and registered a crime. In the hospital, she was treated for three days, and on 3.10.2004 she got herself discharged and went to a private hospital for better treatment, where PW-2 treated her till 30.10.2004 and performed surgery, and thus she spent nearly Rs.30,000/- towards medical expenses. The claimant

received fracture injury and the doctor, during the operation, inserted steel rods in her left leg, due to which she could not do any kind of business. The petitioner/claimant, thus suffered permanent disability and being incapacitated for even sitting and squatting, and hence the appellant/claimant contends that the amount awarded by the Tribunal is grossly inadequate, and sought for enhancement.

3. On behalf of the respondents, it is denied that the accident was due to rash and negligent driving of Respondent No.1. It is also argued that the amount awarded by the Tribunal is reasonable and just, which do not warrant any interference in the present, and therefore, the appeal is liable to be dismissed.

4. Heard the learned counsel appearing for both the parties and considered the material on record.

5. Admittedly, on the date of incident, the appellant/claimant was proceeding in a rickshaw, met with the accident and received injuries. The appellant, as PW-1 deposed that when she was proceeding in the rickshaw and reached Gandhi Bomma Center, Kaikalur, the offending RTC Bus came in a rash and negligent manner and dashed against Gudu Rickshaw, and in the incident her push cart was also broken into pieces, and she sustained injuries to her left leg, resulting in fracture. The driver of the bus was examined as RW-1, who admitted about the incident and

registering an offence against him by the police punishable under Section.337 and 338 IPC.

6. After taking into consideration the voluminous evidence adduced by both the parties, the Tribunal held that the respondent No.1 driver is responsible for the accident, and the 2nd respondent-RTC is liable to pay the compensation awarded.

7. With regard to quantum of compensation, the Tribunal awarded a sum of Rs.80,000/- towards the compensation for the injuries received by the claimant. The learned counsel for the appellant submits that the appellant/claimant is a lady fruit vendor, and due to the accident she is incapacitated even from sitting properly or squatting, and thus she had permanent disability and is unable to do any business. Therefore, it is contended that the accident badly affected the claimant from her future earning capacity. Therefore, the compensation awarded by the Tribunal is very low and warrants interference of this Court for enhancement.

8. PW-2 is the Medical Officer, who treated the injured/claimant, has spoken about treating the injured in the hospital and performing surgery. He also spoken about the issuance of Ex.A-8 disability certificate, as a Medical Board Member. His evidence clearly shows that the claimant had incurred an expenditure of Rs.40,000/- for her treatment and surgery etc.

9. The Tribunal had taken into consideration all the material evidence on record, including the oral and documentary evidence, and discussed in detail about the injuries, earning capacity and the disability occurred to the claimant due to the accident etc., and estimated the amount incurred by the injured/ claimant would be Rs.40,000/- to Rs.50,000/-. As per the medical records, the claimant/injured had sustained deformity to left leg, contusion and abrasion below left knee. Therefore, taking into consideration all the above factual aspects, and the manner in which the accident took place, the Tribunal has determined the compensation at Rs.80,000/-, which, in my opinion, appears to be just and reasonable. There are no merits in the appeal for enhancement of the compensation. Hence, the appeal is liable to be dismissed.

10. In the result, the appeal fails and the same is dismissed accordingly, confirming the order and award of the Tribunal. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

M.S.K. JAISWAL, J.

June 12, 2017

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THE HON' BLE SRI JUSTICE M. S. K. JAISWAL



M.A.C.M.A.No. 1199 of 2010

JUDGMENT

Dt. 12..06..2017

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