

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

M.A.C.M.A No. 1608 of 2010

JUDGMENT:

This appeal is arising out of the order dated 04.09.2008 in O.P.No.2136 of 2006 on the file of Motor Accidents Claims Tribunal-cum-XII Additional Chief Judge (Fast Track Court), Hyderabad (for short, 'the Tribunal').

2. Brief facts of the case are that on 09.06.2006, at about 7:30 AM, near House Board Colony, Madhuban Colony, while the petitioner and his friend were proceeding on a motorcycle, an RTC bus bearing No.AP-10Z-3347, driven by its driver, in a rash and negligent manner, dashed the motorcycle of the petitioner. As a result of which, the petitioner sustained grievous injuries and was hospitalized. Alleging that the accident occurred due to the rash and negligent driving by the driver of the RTC bus, the petitioner filed claim petition claiming compensation of Rs.2,40,000/- against the respondents-RTC.

3. The Tribunal awarded compensation of Rs.1,20,000/- with interest at 7.5% per annum from the date of petition till realisation.

4. Aggrieved by the same, the APSRTC filed this appeal mainly contending that there is contributory negligence on the part of the petitioner, and that the compensation awarded by the Tribunal is excessive.

5. The point for consideration in this appeal is:

- (i) Whether there is contributory negligence on the part of the injured?

(ii) Whether the quantum of compensation awarded by the Tribunal is excessive?

6. Heard the arguments of learned counsel for the appellants-RTC and learned counsel for the respondent-claimant.

7. Learned counsel for the appellants contended that the independent eyewitness is not examined in this case and basing on the evidence of PW1-injured eyewitness, the Tribunal came to the conclusion that there is negligence on the part of the driver of RTC bus.

8. It is appropriate to refer to the findings of the Tribunal in this regard. The Tribunal observed that PW1-eyewitness has spoken about the manner in which the accident occurred. He sated that on the date of accident while he was proceeding on motorcycle, the crime vehicle came at a high speed in a rash and negligent manner and dashed the motorcycle, as a result of which, he sustained grievous injuries. No doubt, nothing is elicited in the cross-examination of PW1 to discredit his evidence and, therefore, the Tribunal believed the evidence of PW1 with regard to the rash and negligent act on the part of the driver of RTC bus.

9. The Tribunal also placed reliance on the documentary evidence of Ex.A1 to A3 of which Ex.A1 is Certified Copy of FIR, Ex.A2 is the Certified Copy of Chargesheet, Ex.A3 is the Medico Legal Record. These also clinchingly prove that the accident occurred due to rash and negligent driving by the driver of RTC bus.

10. There is no material placed on record to prove that there is contributory negligence on the part of the claimant. Therefore, I do not

see any valid grounds to interfere with the findings of the Tribunal with regard to rash and negligent act on the part of the driver of the RTC bus.

11. Learned counsel for the appellants-RTC contended that the quantum of compensation is excessive and the same requires to be reduced.

12. The Tribunal awarded Rs.75,000/- towards one grievous injury, Rs.10,000/- towards medical expenses, Rs.25,000/- towards future medical expenses, and Rs.10,000/- towards loss of earnings. In all, the Tribunal awarded compensation of Rs.1,20,000/- with interest at 7.5%.

13. As per the observations of the Tribunal, PW1 sustained fracture to his fibula which is a grievous injury. He has also filed Ex.A4-Disability certificate. It is stated that he was a sales boy earning Rs.3,000/- per month and aged about 22 years by the date of accident. Because of the injury, he may suffer in future and the disability suffered by him may be functional disability also. The medical officer-PW2 was examined and he testified about the grievous injury suffered by the claimant and the treatment undergone by the claimant under him.

14. In the light of the evidence of medical officer and the nature of injury suffered by him and keeping in view the age of the claimant and keeping in view the functional disability which he may likely suffer in future, the compensation awarded by the Tribunal does not appear to be on higher side.

15. It is also pertinent to note that the appellants-RTC has already deposited the entire amount and the same was withdrawn by the claimant.

16. In view of the foregoing reasons, I do not see any valid reasons to interfere with the findings of the Tribunal in this regard.

17. In the result, the appeal is dismissed, and the order dated 04.09.2008 in O.P.No.2136 of 2006 is confirmed. No costs. Pending miscellaneous petitions, if any, shall stand closed.

GUDI SEVA SHYAM PRASAD, J

22nd March, 2017

KSM



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