

HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

M.A. C.M.A. No.635 OF 2018

JUDGMENT:

Questioning the compensation of Rs.1,16,000/- awarded by the learned Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, West Godavari, at Eluru, by the judgment and decree dated 3.10.2017 in M.V.O.P.No. 501 of 2010, filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), as against the claim of Rs.2,00,000/- for the injuries sustained by respondent No.1-claimant in a road accident, where negligence is attributed to the respondent No.2, driver of Andhra Pradesh State Road Transport Corporation (APSRTC), the present appeal is preferred under Section 173 of the Act.

Heard Sri S.V. Ramana, learned Standing Counsel for the appellant - APSRTC, represented by its Chairman-cum-Managing Director, Vijayawada, and perused the judgment under challenge including the material on record.

Learned Standing Counsel for the appellant would submit that the compensation awarded is excessive and exorbitant. He would further submit that the Tribunal ought not to have granted Rs.53,000/- towards hospital, medical and other expenses, Rs.30,000/- towards loss of earnings and Rs.33,000/- towards injury, shock, pain and suffering and even interest awarded at 7.5% per annum is highly excessive.

The present appeal is taken up for disposal at the admission stage in view of the reason that there is no merit at all.

So far as rash and negligent driving of respondent No.2 at the time of accident is concerned, though, he was examined as RW.1, but, the Tribunal basing on the evidence of PW.1 holds that it rebuts the evidence of RW.1. Further, the very fact that Ex.A-1-FIR was registered against respondent No.2 and the Motor Vehicles Inspector Report under Ex.A3 also showing that there is no mechanical defect in taking place of the accident are sufficient to rebut the evidence of RW1.

Turning to whether there is any justification in granting Rs.33,000/- towards injury, shock, pain and suffering, the Tribunal taken into consideration that the claimant sustained fracture injuries on 3, 4, 5, 6, 8 and 9 ribs on the right side, lacerated wound on right shoulder, cut injury on right elbow and that he was initially treated in RCM Hospital, Gudiwada and, from there, he was shifted to Global Medical Centre, Vijayawada, for better treatment. The Tribunal, based on bunch of medical bills under Ex.A-6 and discharge summary-Ex.A8, arrived at the conclusion that the claimant is entitled to Rs.53,000./- towards hospital, medical and other expenses, as the claimant spent Rs.52,781.60 paise as reflected from Ex.A6 bunch of medical bills. The Tribunal appears to have not taken into consideration any permanent disability. Therefore, the amount of Rs.33,000/- granted towards pain, shock and suffering under the head

of injury, cannot be construed as exorbitant for the reason that the claimant sustained six fractures.

So far as the amount of Rs.30,000/- granted towards loss of earnings towards past and present is concerned, in fact, the same cannot be said as exorbitant and excessive, as six to eight months would have taken for recovery from the injuries sustained by the claimant. In fact, the Tribunal has not awarded any amount under other heads. Thus, viewed from any angle, there is no merit in the present appeal.

Therefore, the appeal is dismissed. For payment of compensation, three months' time is granted from the date of receipt of a copy of the order.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the appeal stand closed.

JUSTICE A. SHANKAR NARAYANA

Date: 19th March, 2018

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