

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.975 OF 2015

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the award and Decree dated 02.03.2015 passed in O.P.No.120 of 2009 by the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-I Additional Metropolitan Sessions Judge-cum-XV Additional Chief Judge, Hyderabad (for short, the Tribunal).

2. The brief facts of the case are that on 08.08.2008 at about 4.30 p.m., while the petitioner was returning to Hyderabad by RTC bus bearing No.AP 11 Z 4159 belonging to Miryalaguda Depot, and at about 7.30 p.m., when the bus reached Kalapathar, Imamguda, the driver of the RTC bus drove the bus in a rash and negligent manner and dashed a stationed lorry, due to which, the claimant received grievous injuries and he was immediately shifted to Thirumala Hospitals and thereafter to Uday Clinic at Chapel Road, Nampally, Hyderabad, for better treatment. The accident occurred due to the rash and negligent driving of the driver of the RTC bus, hence, the claimant filed the claim petition under Section 163-A and 166 of Motor Vehicles Act claiming compensation of Rs.20,00,000/- against respondents 1 and 2.

3. The respondents filed their counter denying the allegations made in the claim petition *inter alia* contending

that the amount of compensation claimed by the petitioner is excessive, exorbitant, imaginary and out of proportion. Hence, the petition is liable to be dismissed.

4. Basing on the above pleadings, the tribunal framed the following issues:

1. Whether the accident occurred on 09.08.2008 at about 7.30 p.m., on N.H.9 main road, near Kalapathar Road, Imamguda, was due to rash and negligent driving of the APSRTC bus bearing No.AP 11 Z 4159, by its driver?

2. Whether the petitioner is entitled to any compensation, if so, to what amount and from whom?

3. To what relief?

5. During the course of trial, the claimant examined himself as P.W.1 apart from examining P.Ws.2 to 7 on his behalf and marked Exs.A1 to A12. On behalf of the respondents 1 and 2, no oral and documentary evidence was adduced.

6. After considering the material on record and the evidence adduced by the claimant, the Tribunal allowed the O.P. in part and awarded an amount of Rs.7,15,600/- with interest at 7.5% p.a. from the date of petition till the date of realization payable by the respondents 1 and 2 jointly and severally to the petitioner. The Tribunal also permitted the petitioner-claimant to withdraw an amount of Rs.3,15,600/- with entire interest and costs immediately after the deposit of the compensation amount by the respondents and made it

clear to keep the remaining compensation amount of Rs.4,00,000/- in fixed deposit in any Nationalised Bank i.e. Rs.2.00 lakhs for a period of three years and the remaining Rs.2.00 lakhs for a period of six years.

7. Being aggrieved by the quantum of compensation awarded by the Tribunal, the claimant preferred the present appeal.

8. It is the case of the appellant that he is aged about 19 years by the date of accident and the multiplier applied by the Tribunal '16' is not correct as the appropriate multiplier is '18' and further the Tribunal instead of taking the notional income of the claimant as Rs.12,000/- as he is prosecuting B.Tech fourth year, has taken Rs.6,000/- per annum and the counsel appearing for the appellant relied on the decision in **B.RAMULAMMA v. M/s.VENKATESH BUS UNION, REP.BY A.M.VELU MUDALIYAR, BANGALORE**¹ wherein the Court has fixed Rs.12,000/- per month as salary. In M.A.C.M.A.No.2281 of 2013 (un-reported judgment) the Division Bench of this Court has fixed the notional monthly income of a B.Tech IV year student as Rs.15,000/-p.m. Learned counsel appearing for RTC has seriously opposed stating that the claimant is not a bright student and had several backlogs. However, having regard to the contentions raised by the learned standing counsel, instead of fixing the

¹ 2009(6) ALT 784 (D.B.)

notional income as Rs.15,000/- as decided by the Division Bench of this Court, Rs.12,000/- as fixed in the decision cited (supra), is taken into consideration and accordingly, multiplier of '18' is applied.

9. The appeal is accordingly allowed in part without disturbing the order passed by the Court below in all other aspects. The order passed by the Court below is only modified to the extent indicated above. Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

Date: 06.12.2018
Rns

T.AMARNATH GOUD, J

