

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

M.A.C.M.A.No.582 OF 2006

JUDGMENT:

Dissatisfied with the amount of Rs.46,000/- granted as compensation by the order dated 23-09-2005 in MVOP.No.1371 of 2002 on the file of Chairman, Motor Accidents Claims Tribunal-cum-XI Additional District Judge, (F.T.C.), Guntur at Tenali (for short "the Tribunal) as against the claim of Rs.1,10,000/- laid under Section 163-A of Motor Vehicles Act, 1988, for the injuries sustained by the petitioner in a road accident, the appellant filed the instant appeal for enhancement of compensation.

The appellant herein is the petitioner and the respondents 1 to 3 herein are the RTC-hirer of the bus, owner of the bus and insurer of the bus, are respondents 1 to 3 respectively in the MVOP.

For the sake of convenience, the parties are herein referred to as they were arrayed before the Tribunal in the MVOP.

The brief facts of the case are as under:

The petitioner filed the above MVOP for the injuries sustained by him in a road accident occurred on 20-11-2002 at about 11.30 am. On that day the petitioner was traveling along with another person by name C.Eishak from Donthuluru to reach Tadepalli for attending a marriage as a member of Band Music on Moped and when they reached Morampudi Village the RTC bus bearing No.16 W 8393 driven by the driver of the 2nd respondent with high speed and without blowing horn dashed against the petitioner, who was

sitting as a Pillion rider of the Moped. As a result of which, Moped was fell down on the road margin and the petitioner sustained grievous injuries and fractures on his right leg thigh. Immediately, the petitioner was shifted to Government General hospital, Tenali for treatment. When the accident was reported to Duggirala Police station, a case in Cr.No.96/02 was registered. The petitioner is a barber by profession and used to earn Rs.100/- per day and he is an expert member in band music party and used to earn Rs.500/- per month on playing band music. The petitioner was admitted in the hospital as inpatient and his leg was operated upon and a metal rod was inserted in the right leg and as such, he is suffering with pain due to fractures. Therefore, the petitioner is claiming compensation of Rs.1,10,000/-. The 1st respondent being the hirer of the bus and the 2nd respondent being the owner of the bus and 3rd respondent being the insurer of the bus which involved in the accident are jointly and severally liable to pay compensation.

The 1st respondent filed counter stating that the 1st respondent-APSRTC hired the vehicle belonging to the 2nd respondent insured with the 3rd respondent. While taking the bus on hire, there was an agreement between said respondents and as per the terms and conditions of the agreement, the owner of the bus shall be responsible for all the claims arising out of accident payable under the provisions of the M.V.Act. As such, the 1st respondent is not liable to pay compensation.

The 3rd respondent filed counter denying the allegations saying that since the 1st respondent hired the vehicle of the 2nd respondent, the 1st respondent alone is liable to pay compensation.

It is also stated that accident took place on account of negligence of driver the bus and as such, the 1st respondent alone is liable to pay compensation.

Basing on the pleadings and evidence of PW.1, who is the claimant himself and injured and the evidence of PW.2, the Doctor who examined and treated the petitioner and basing on Ex.A.1 certified copy of F.I.R. , Ex.A.2 certified copy of charge sheet and Ex.A.3 certified copy of wound certificate, the Tribunal has granted compensation of Rs.46,000/- with interest @7.5% per annum from the date of filing till realization.

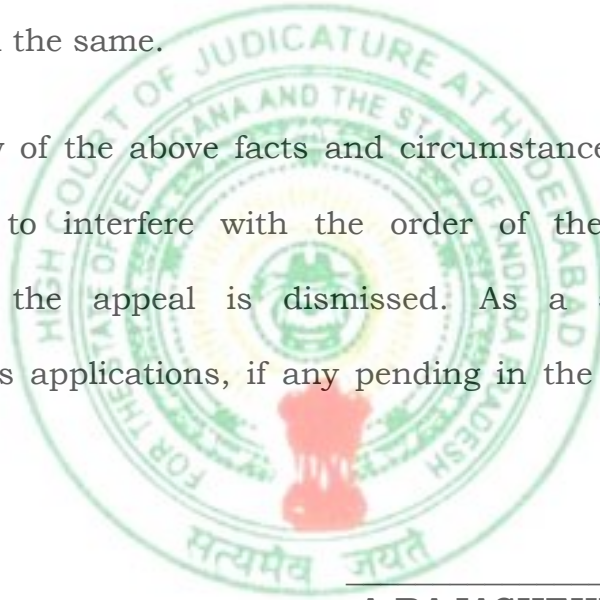
Heard learned counsel for the petitioner who submits that meagre amount was awarded towards pain and suffering and notional income was also taken as per Schedule-II of the M.V.Act, which is erroneous.

In this case, there is no appearance for the respondents 1 and 3 and appeal is dismissed for default against respondent No.2 on 25-04-2016. No steps were taken for setting aside the same.

It is to be seen that PW.1 in his evidence stated that he is earning Rs.500/- per day and earning Rs.15,000 to 20,000/- per annum. The Tribunal found that as there is no authentic evidence about the income of the petitioner, notional income of Rs.15,000/- per annum for non-earning persons as per the Schedule-II of the MV Act has been taken as income of the petitioner. So also, Clause-G in the Schedule-II in case of pain and suffering Rs.5,000/- can be granted, but the Tribunal has granted Rs.10,000/-. In view of the same, it cannot be said that the

Tribunal has taken the income of the petitioner on lower side and also granted meagre income towards pain and suffering. The Tribunal has granted Rs.34,000/- towards future loss of earnings and amenities of life by applying proper multiplier and granted Rs.1,000/- and 1000/- towards attendant charges and extra nutrition respectively. In all the Tribunal granted Rs.46,000/- towards compensation along with interest 7.5% per annum from the date of filing petition till realization. No infirmity in the impugned judgment and decree has been brought to the notice of this Court. In view of the same, I do not find any reason to interfere with the same.

In view of the above facts and circumstances, I do not see any reason to interfere with the order of the Tribunal and accordingly, the appeal is dismissed. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.



A.RAJASHEKER REDDY, J

01-02-2018
Nvl