

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

M.A.C.M.A No. 3048 of 2009

JUDGMENT:

This appeal is arising out of the judgment dated 11.06.2008 passed in O.P. No.221 of 2006 by the XXII Additional Chief Judge-cum-Before the Motor Accidents Claims Tribunal, City Criminal Court, at Hyderabad.

2. Brief facts of the case are as follows:

On 21.08.2005, the petitioner, along with one Srinivas, was travelling on motorcycle bearing No.AP 28N 5023 from Nagireddigudem to Gomaram village; and at about 5.15 PM when they reached outskirts of Gomaram village, one RTC bus bearing No.AP 9Z 4669 belonging to the 1st respondent came in opposite direction and dashed the motorcycle of the petitioner. The petitioner fell down and received grievous injuries and he was immediately taken to Ram Hospital, Shapurnagar. The petitioner was admitted in the hospital and he took treatment as inpatient from 21.08.2005 to 17.09.2005. The Police, Shivampet P.S., registered a case in Crime No.61 of 2005 against the driver of the offending RTC bus. Alleging that the accident occurred due to the rash and negligent driving by the driver of the RTC bus, the petitioner filed O.P.No.221 of 2006 before the Tribunal, claiming compensation of

Rs.5,00,000/- with interest at 18% per annum, against the respondents-RTC.

The Tribunal, on consideration of the evidence of witnesses PWs.1 to 3 and the documents Exs.A1 to A6, has awarded compensation of Rs.1,93,856/- with interest at 6% per annum against the respondents-RTC.

Aggrieved by the award passed by the Tribunal, the respondents-RTC filed this appeal on the ground that there is contributory negligence on the part of the petitioner, and that the compensation awarded by the Tribunal is excessive.

3. The point for consideration in this matter is whether the compensation awarded by the Tribunal is excessive, and whether it is a case of contributory negligence.

4. Learned counsel for the appellants-RTC submits that it is a case of 'head-on' collision and, therefore, there is contributory negligence on the part of the petitioner.

5. As far as the contention of the learned counsel for the appellants-RTC with regard to the contributory negligence is concerned, the Tribunal has placed reliance on the evidence of the witness PW.1 and the documents Ex.A1-FIR, and Ex.A2-Chargesheet, and came to the conclusion that there is rash and negligence on the part of the driver of the RTC bus. Therefore, there is no reason to interfere with the findings of the Tribunal.

6. It is contended that the Tribunal has taken into consideration the medical bill Ex.A5 and other documents Exs.A3, A4 and A6, and awarded Rs.1,49,856.25 p towards medical expenses, without examining the manager of the hospital and, therefore, sought for reducing the compensation.

7. Learned counsel for the respondents submits that the compensation awarded by the Tribunal does not require any interference because the claim of the petitioner was Rs.5,00,000/-, whereas the Tribunal has awarded only Rs.1,93,856/-.

8. On consideration of the material on record, it is obvious that PW.2 is the medical officer who examined the petitioner and issued MLC record-Ex.A3, Discharge Summary-Ex.A4, Original Discharge bill-Ex.A5, and Ex.A6-Bunch of x-ray films. The testimony of this witness reveals that the petitioner received four grievous injuries and he underwent two operations i.e., on 22.08.2005 and on 05.09.2005, and he was discharged on 17.09.2005.

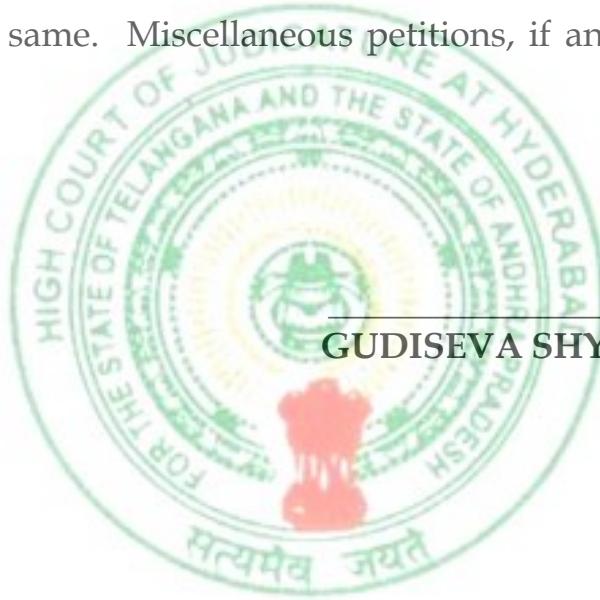
9. The Tribunal, on consideration of the evidence of medical officer, has rightly appreciated the evidence on record and awarded adequate compensation and it does not require any interference.

10. Having regard to the facts and circumstances of the case, I do not see any valid ground to interfere with the award passed by the Tribunal.

11. **In the result**, the appeal is dismissed, confirming the award passed by the Tribunal. The appellants-RTC are directed to deposit the remaining amount of the compensation awarded by the Tribunal within one month from the date of receipt of a copy of this order; and, on such deposit, the respondent-claimant is permitted to withdraw the same. Miscellaneous petitions, if any pending, shall stand closed.

21st June, 2018

KSM



GUDISEVA SHYAM PRASAD, J

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



M.A.C.M.A No. 3048 of 2009

21st June, 2018

KSM