

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL MISCELLANEOUS APPEAL No.1182 of 2004

JUDGMENT:

Aggrieved by the order, dated 05.11.2003, in M.V.O.P.No.947 of 1999 passed by the Motor Accidents Claims Tribunal (District Judge) Guntur, the claimant preferred the present appeal seeking enhancement of compensation.

2. The claimant filed the aforesaid M.V.O.P.No.947 of 1999 claiming an amount of Rs.4,10,278.76 ps as compensation for the injuries sustained by him in a motor accident that occurred on 14.06.1999 at about 10:30 AM., near Anjaneyaswamy Temple on Ponnur-Guntur Road, due to rash and negligent driving of driver of Tipper Lorry bearing No.AP-03-T-5523, owned by the 1st respondent.

3. In the claim petition, it was stated that the claimant is a resident of Ponnur and he is an employee in Venkateswara Cable Networks at Ponnur on a monthly salary of Rs.3,000/-. On the date of accident, while he was going on a bicycle as a pillion rider on the road, at that the time the driver of Tipper lorry came at high speed in a rash and negligent manner and dashed the bicycle, due to which the claimant fell down from the bicycle and received serious injuries. Crime No.94 of 1999 was registered in respect of the said accident. The claimant was initially taken to Government Hospital, Ponnur and then Government General Hospital, Guntur, and later on, he was admitted in a private Nursing Home by name Sanjivi Clinic on 14.06.1999. He was discharged from the said

hospital on 05.07.1999. He also underwent surgery on 26.06.1999 and his right foot was amputated.

4. The 1st respondent remained *ex parte*. The 2nd respondent/Insurance company filed written statement contending that the driver of the vehicle was not possessing valid driving licence to drive the vehicle and the 1st respondent had not informed the insurance company with regard to the accident.

5. On the basis of above pleadings, the following issues were framed by the Tribunal.

- “1. Whether the petitioner sustained injuries in the accident due to rash and negligent driving of the Ashok Leyland Lorry (Tipper) No.AP-03-T-5523 by its driver?
2. To what compensation amount the petitioner is entitled to and against whom?
3. To what relief?”

6. The petitioner examined P.Ws.1 to 4 including himself as P.W.1 and marked Exs.A.1 to A.6. No evidence was adduced on behalf of the respondents.

7. The Tribunal, on the basis of oral and documentary evidence, held that the accident occurred due to rash and negligent driving of Tipper lorry by its driver. The Tribunal took the monthly income of the injured as Rs.1,200/- and also accepted the partial permanent disability as 50% in view of amputation. The age of the petitioner was taken as 25 years and applying multiplier '17', the loss of earnings were calculated. An amount of Rs.15,000/- was awarded towards non-pecuniary damages. Thus, in all an amount

of Rs.1,04,400/- was awarded along with interest at 9% per annum from the date of petition till realization.

8. Learned counsel for the appellant submits that the income of the appellant at Rs.1,200/- per month taken by the Tribunal is grossly inadequate and the multiplier '17' was also improper. He further submits that the Tribunal erred in awarding only an amount of Rs.1,04,400/- and the claim was Rs.4,10,278.76 ps.

9. This Court noticed that the amount of monthly income at Rs.1,200/- is inadequate and at least Rs.2,000/- should have been taken as monthly income of the injured. If the said amount of Rs.2,000/- was taken, the loss of temporary earnings for three months would come to Rs.6000/- (Rs.2,000 x 3), in stead of Rs.3,200/- and multiplier '18' is applied as per **Sarla Verma and others v. Delhi Transport Corporation and another**¹, the loss of future earnings comes to Rs.2,16,000/- (Rs.12,000 x 18) instead of Rs.40,800/-. The amount awarded under other heads shall remain unaltered and the appellant is entitled for an amount of Rs.20,000/- towards purchase of medicines, Rs.6,000/- for temporary loss of earning, Rs.2,16,000/- for loss of future earnings on account of partial permanent disability, Rs.25,000/- towards cost of artificial limb and Rs.15,000/- towards non-pecuniary. Thus, the total compensation amount comes to Rs.2,82,000/-. Hence, the compensation awarded by the Tribunal is enhanced from Rs.1,04,400/- to Rs.2,82,000/-. The enhanced amount of compensation shall carry the same rate of interest at 9% per annum from the date of petition till realization.

¹ (2009) 6 SCC 121

10. Accordingly, the appeal is partly allowed. Miscellaneous petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

MARCH 22, 2018

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Date:22.03.2018

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