

THE HON'BLE MS. JUSTICE J.UMA DEVI

M.A.C.M.A.No.146 of 2010

JUDGMENT:

Against the award dated 23.04.2009 passed in M.O.P.No.173 of 2007 on the file of the VII Additional District Judge (Fast Track Court), Visakhapatnam, the present appeal is filed by respondents 2 and 3 in the abovementioned O.P.

The parties will hereinafter be referred to as they are arrayed in the aforementioned O.P.

The factual background of the case is briefly stated as follows:

That on 21.04.2006 at about 11:30 am while the petitioner was travelling in an APSRTC bus bearing No.AP 11 Z 489 to go to Jagavanipalem, Gajuwaka from Seethammapeta, the said bus was driven by its driver in a rash and negligent manner as a result of which the bus hit a stationed lorry bearing No.AP 31 W 9499. When the bus hit the stationed lorry, the petitioner jumped from the front seat she occupied and sustained a head injury. The petitioner was immediately shifted to Padmaja Hospital, Old Gajuwaka, Viskhapatnam for treatment and there she obtained treatment as an in-patient for a period of 8 days. After she was discharged from the hospital, she took treatment as an out-patient and spent huge amount towards medical and other expenses. Traffic Police of Gajuwaka initially registered a case in Crime No.90 of 2006 against the driver of the APSRTC bus on 21.04.2006 under Section 337 I.P.C and later the section of law was altered to Section 338 I.P.C.

The 1st respondent-driver of the APSRTC bus remained *ex parte*. The case filed by the petitioner was contested by the Depot Manager of APSRTC, Waltair Depot, Visakhapatnam and the Vice Chairman and Managing Director of APSRTC, Mushirabad, Hyderabad who were arrayed as respondents 2 and 3 respectively in the O.P.

The petitioner, to prove that the accident which resulted in injuries to her was caused by the driver of the APSRTC bus bearing No.AP 11 Z 489 in which she has travelled at the relevant point of time, got herself examined as P.W.1 in addition to examining Dr.G.Simhachalam, Visakhapatnam as P.W.2 and Dr.Mohan Patro, Visakhapatnam as P.W.3. She also relied on Exs.A.1 to A.10.

The Court below, relying on the oral testimony of P.W.1, whose evidence was supported by Exs.A.1 to A3, opined that the driver of the APSRTC bus bearing No. AP 11 Z 489 was responsible for the accident and accordingly answered the issue which was framed on negligent act.

It was asserted by P.W.1 that she sustained head injury in the accident dated 21.04.2006 and for the said injury she obtained treatment as an in-patient for a period of eight days in Padmaja Hospital, Old Gajuwaka and later obtained treatment as an out-patient also. She got examined P.W.2-Dr.G.Simhachalam, Visakhapatnam through an Advocate-Commissioner. It was deposed by P.W.2 that on 21.04.2006 at about 11:30 am, the petitioner was brought to his hospital for treatment stating that she received injuries in a road accident; on examining her clinically he noticed injury over her scalp; and she was provided with treatment for a period of one week and was discharged on 28.04.2006. P.W.3-Dr.Mohan Patro also attended the petitioner while she was in Padmaja Hospital, Old Gajuwaka. As per Ex.A.3-wound certificate, the petitioner sustained a lacerated injury over the scalp almost exposing the whole skull which was grievous in nature.

The Court below, on close scrutiny of the evidence of P.Ws.1 to 3 and the documents in Exs.A.4 to A.8, awarded a sum of Rs.30,000/- in respect of the grievous injury received by her to the scalp. The Court below, on verification of the medical bills which were supported by Ex.A.9-prescriptions, awarded a sum of Rs.16,000/- under the head of

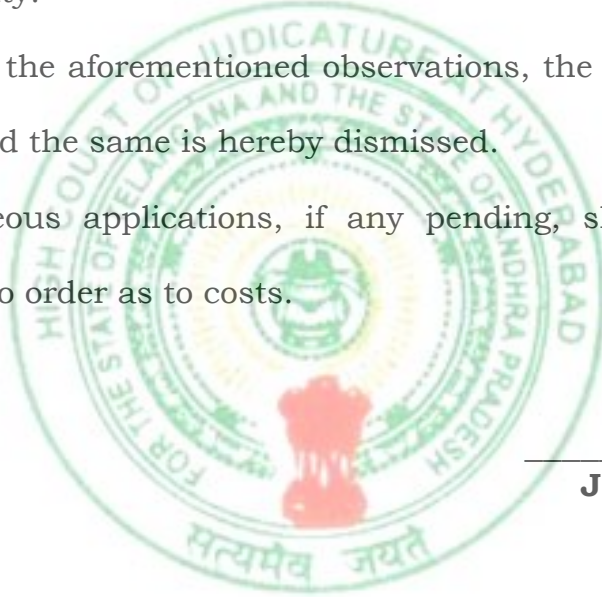
medical expenditure. The Court below, on considering the pain and trauma which the petitioner was put to suffer on account of injuries she received to head, awarded a sum of Rs.6,000/- under the head of pain and suffering. The Court below had also awarded an amount of Rs.10,000/- under the head of extra nourishment and travelling and attendant charges and Rs.7,000/- under the head of loss of earnings.

Thus, the Court below, on considering the oral and documentary evidence, has awarded a total compensation of Rs.69,000/- in favour of the petitioner payable by the respondents together with interest at the rate of 7.5% per annum which, in my view, does not suffer from any patent irregularity.

In view of the aforementioned observations, the appeal filed by the APSRTC fails and the same is hereby dismissed.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

16th July, 2018
JSU



J. UMA DEVI, J

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Date: 16.07.2018

JSU

