

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.4433 OF 2008

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellants/Andhra Pradesh State Road Transport Corporation (now 'T.S.R.T.C.'), aggrieved by the grant of compensation of Rs.2,39,000/- as against a claim of Rs.3,00,000/- to the respondent/claimant, by the learned V Additional Metropolitan Sessions Judge (Mahila Court) – cum – XIX Additional Chief Judge, City Criminal Courts at Hyderabad *vide* order, dated 10.09.2007, passed in O.P.No.2958 of 2005.

2. Heard the submissions of the learned Standing Counsel appearing for the appellants/R.T.C. and the learned counsel for the respondent/claimant, and perused the material on record.

3. Learned Standing Counsel for the appellants would contend that the Court below had granted an amount of Rs.1,58,362/- towards medical expenses and also Rs.40,000/- towards loss of income; that though the salary certificate of the respondent/claimant is marked as Ex.A-9, none was examined to prove the same and therefore, granting an amount of Rs.40,000/- towards loss of income is on higher side; that the billing person of the medical shop is also not examined to prove that the respondent/claimant incurred medical expenses to a tune of Rs.1,58,362/-; that the grant of compensation of Rs.2,39,000/- is excessive and ultimately, prayed to reduce the compensation and allow the appeal as prayed for.

4. On the other hand, learned counsel for the respondent/claimant would contend that the respondent/claimant suffered grievous injuries and was hospitalised for a long time; that there is evidence of P.W.1 and also the Doctor/P.W.2, who has clearly and categorically deposed about the injuries and the treatment; that P.W.2 supported the grant of medical expenses basing on Ex.A-5 – original out patient card and A-6 – bunch of medical bills; that as per Ex.A-9 – salary certificate, the respondent/claimant was working as a Manager in Malkajgiri Municipality and drawing a salary of Rs.21,625/- and the Tribunal had taken only Rs.10,000/- towards his monthly salary and awarded Rs.40,000/-; that the Tribunal had taken all the factors into consideration and granted just and reasonable compensation; that there are no circumstances to interfere with the same and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by the learned counsel on both sides, the only point that comes for determination is:

“Whether the grant of compensation of Rs.2,39,000/- by the Court below is excessive?”

6. **POINT:-**

As per the evidence of P.W.2 – Doctor, who treated the claimant, the respondent/claimant was brought to their hospital on 24.08.2005 with compound communitated fracture. He was operated on the same day. He was referred to ENT surgeon and was operated for the injury on the nose. He was discharged on 05.09.2005 with an advice of rest for three months. There is also the evidence of P.W.1 that he was earning Rs.18,500/- per month

as Manager of Malkajgiri Municipality. He was on half pay leave for 240 days. Ex.A-9 – salary certificate shows that his gross salary was Rs.21,625/-. P.W.2 – Doctor stated that the disability sustained by the claimant is 15% and he was advised to take rest for three months. Further, under Exs.A-5 and A-6, there is mention that the respondent/claimant spent Rs.1,58,362/-. Therefore, granting an amount of Rs.40,000/- by the Tribunal towards loss of income is justified, as the respondent/claimant was on half pay leave for 240 days. Further, the Tribunal granting an amount of Rs.1,58,362/- towards medical expenses is also justified. In view of this, there is no infirmity in granting the medical expenses as well as the earnings towards loss of income. Further, the Tribunal granted meagre amounts towards other heads. There is justification in the compensation awarded by the Tribunal. There are no circumstances to interfere with the impugned order. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed. There shall be no order as to costs.

8. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 19.07.2018
AMD

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