

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3432 of 2005

and

Cross Objections (SR) No.22962 of 2006

JUDGMENT:-

Challenging the Order, dated 20.06.2005, passed in O.P.No.803 of 1999 by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad ('the Tribunal', for brevity), RTC preferred M.A.C.M.A.No.3432 of 2005 seeking to set aside the impugned Order and the claimant preferred Cross Objection (SR) No.22962 of 2006 seeking enhancement of compensation.

2. Heard the submissions of Sri Kuldeep Jadhav, learned counsel appearing on behalf of RTC and Sri P.Radhive Reddy, learned counsel for the Cross objector (claimant) and perused the record. The parties are hereinafter referred to, as arrayed before the Tribunal.

3. The learned Standing Counsel for the appellant in MACMA No.3432 of 2005 and respondents 1 and 2 in Cross Objection (SR) No.22962 of 2006 (RTC) would contend that the Tribunal granted compensation of Rs.1,76,802/- with interest @ 9% per annum from the date of petition till realisation, which is excessive. The Tribunal, without there being any material on record, granted Rs.75,000/- towards disability and for the treatment undergone by the claimant for the injuries on vital parts of his body. The Tribunal also granted excess compensation on other heads. The claimant did not suffer any

disability in the subject accident as contended. The Tribunal granted Rs.25,000/- towards pain and suffering, which is excessive and ultimately prayed to allow the appeal by setting aside the order under challenge.

4. On the other hand, the learned counsel for the Cross Objector in Cross Objection (SR) No.22962 of 2006/sole respondent in MACMA No.3432 of 2005 (claimant) would contend that the Tribunal granted a meagre compensation of Rs.1,76,802/- as against a claim of Rs.5,00,000/-. The Tribunal did not grant adequate compensation on different heads and ultimately prayed to enhance the compensation as claimed.

5. In view of the above rival contentions, the points that arise for determination in this appeal are as follows:

1. Whether the Tribunal justified in granting compensation of Rs.1,76,802/- with interest at the rate of 9% per annum from the date of petition till realisation in favour of the claimant?
2. Whether the impugned order and decree passed by the Tribunal is liable to be set aside.

Points 1 and 2:-

6. It is not in dispute that the claimant suffered injuries in the subject accident occurred on 30.01.1999, due to rash and negligent driving of the driver of the RTC bus bearing registration No.AP-09-Z-3793. As per Ex.A.3-Wound Certificate issued by Civil Assistant Surgeon, Government Hospital, Nizamabad, the claimant sustained contusion on the left lumbar

vertical region, and X-ray No.878/99, dated 30.01.1999 revealed fracture of pelvis with urethral rupture. Ex.X.1-Case-sheet substantiates the same. As per Ex.A.4-Discharge summary, the claimant sustained fracture of pelvis with rupture of urethra. P.W.2-Dr.T.Narsing Rao deposed that fractures suffered by the claimant would be healed in three months. Ex.A.15-Disability Certificate, which was issued by P.W.2 after five years of occurrence of the subject accident, reveals that the claimant sustained 65% disability in the subject accident. The Tribunal, though disbelieved the same, however granted Rs.75,000/- towards disability and for the injuries suffered by the claimant on his vital parts of the body in the subject accident, taking into consideration the age of the claimant and the prolonged treatment taken by him. Grant of Rs.75,000/- towards disability by the Tribunal in favour of the claimant is seriously disputed by the RTC. When there is fracture to pelvis and rupture to urethra and in view of the age, occupation of the claimant and the prolonged treatment taken by him for the said injuries, the Tribunal is justified in granting a compensation of Rs.75,000/- towards disability. There is nothing to take a different view.

7. The Tribunal granted Rs.51,802/- towards medical expenses relying on Ex.A.12-Medical bills, Rs.25,000/- towards pain and suffering and Rs.25,000/- towards future medical expenses. In all, the Tribunal granted a compensation of Rs.1,76,802/- in favour of the claimant with interest @ 9% per annum from the date of petition till realisation. Grant of said compensation by the Tribunal is not excessive in view of the age,

occupation, injuries suffered by the claimant on vital parts of his body, consequences arose therefrom and prolonged treatment for the said injuries. The Tribunal is justified in granting the said compensation in favour of the claimant. There are no circumstances either to interfere with the order under challenge or to enhance the compensation.

8. Accordingly, M.A.C.M.A.No.3432 of 2005 filed by the RTC and Cross Objection (SR) No.22962 of 2006 filed by the claimant are dismissed, confirming the impugned order, dated 20.06.2005, passed in O.P.No.803 of 1999 by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Nizamabad. No costs.

Pending miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

27th August, 2018
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