

THE HON'BLE MS. JUSTICE J.UMA DEVI

M.A.C.M.A.No. 658 of 2011

JUDGMENT:

Against the Award passed by the III Additional Chief Judge, City Civil Court, Hyderabad dated 2nd April, 2007 in O.P.No. 1148 of 2005, awarding compensation of Rs.2,05,000/- to the Claimant in respect of the crush injury he received to his left foot, A.P. State Road Transport Corporation (hereinafter mentioned as APSRTC) which has been arrayed as the respondent in the aforementioned O.P., has come before this Court by preferring the present appeal.

2. The case of the Respondent-Claimant, as narrated in the O.P., is briefly stated as under:

That on 15.03.2005, while he was crossing the road at Yellareddyguda, an RTC bus bearing No. AP 10Z 9953 came towards him in a rash and negligent manner and hit him, and as a result of it, he received fracture injuries to both his legs. Immediately after the accident, he was shifted to NIMS, Hyderabad and there, he underwent surgery, and his fractured left leg was amputated and he was discharged from the hospital on 31.03.2005. He also asserted that he was aged about 60 years as on the date of the accident and was working as a Watchman in a private company and was earning Rs.2,500/- per month. As he became incapable of performing any work due to crush injury received to his left leg, which was amputated subsequently, he lost his source of livelihood and became incapable of attending to the work of Watchman, which he was doing prior to the accident. Therefore, he laid a claim for compensation of Rs.2,50,000/- as against APSRTC, under whose administrative control the driver of the offending vehicle was working at the relevant point of time.

3. Rebutting the assertions made by the Claimant in his pleadings, counter was filed by the APSRTC (the appellant herein). It was contended by the appellant that there was no negligence on the part of the driver of the bus bearing No. AP No. AP 10Z 9953, and it was only due to the negligence of the Claimant in crossing the road without observing the vehicle, proceeding on the road, the incident in question took place.

4. The Claimant, in proof of his assertion that due to the negligent driving of the RTC bus bearing No. AP 10Z 9953 by its driver, he received crush injury to his left foot and the same was amputated subsequently by conducting operation at NIMS, marked Exhibits A1 to A5 and examined himself as PW1.

5. The learned trial Judge, relying on the evidence of PW1, which was corroborated in all aspects with Exhibits A2 to A4, opined that due to negligent driving of the RTC bus bearing No. AP 10Z 9953, which hit him while he was crossing the road near Yellareddyguda, and on account of it, he received injury to left leg, held that the driver of the aforementioned RTC bus was at fault. The appellant-APSRTC, though raised the contention that there was composite negligence on the part of the Claimant also, and that the court below ought to have apportioned the negligence proportionately between the Claimant and the driver of the bus, did not choose to adduce evidence of any sort. The learned trial Judge, relying on the evidence of PW1, whose evidence remained unshuttered, held that the negligence on the part of the driver of the APSRTC bus bearing No. AP 10Z 9953 was proved substantially and accordingly, the principle of *res ipsa loquitur*, made the management of APSRTC to pay compensation to the claimant.

6. Coming to the contention raised by the APSRTC disputing the quantification of compensation, it is evident from the discharge Summary Card (Ex.A1) produced by the Claimant that the Claimant was taken to NIMS, Hyderabad immediately after the accident. When he was taken to the said hospital, he had a crush injury to his left foot and this was the observation made by the Doctor who issued Ex.A4-the Wound Certificate. As there was infection in the said wound, amputation of the foot was done, as found from the contents of Ex.A1-Discharge Summary Card. Placing reliance on Ex.A1 and Ex.A4, wherefrom it was crystal clear that the Claimant was under treatment as in-patient at NIMS Hospital from 16.03.2005 to 31.03.2005, the Court below had awarded reasonable compensation of Rs.10,000/- towards pain and suffering and a sum of Rs.5,000/- towards extra nourishment, transportation charges, attendant charges etc. The Court below, taking note of the contents of Ex.A1, had awarded Rs.30,000/- towards the crush injury received by the Claimant to the left foot, which was amputated subsequently. The learned trial Judge, taking note of the fact that the Claimant became incapable of moving from one end to another due to amputation of his left foot, had awarded Rs.10,000/- under the head of loss of amenities. On examining the physical condition of the Claimant, had reasonably estimated the annual loss of earnings of the Claimant @Rs.30,000/-, and on multiplying the same with multiplier '5' (as he was aged 60 years by the date of accident), awarded a sum of Rs.1,50,000/- under the head of loss of future earnings.

7. As the amount of compensation awarded by the Court below appears to be reasonable, this Court finds that there is no merit in the contention of the appellant-APSRTC that the compensation awarded is excessive and exorbitant. Having come to the conclusion that the Court

below has passed a well-considered order by assigning valid reasons and awarded compensation of Rs.2,05,000/- to the Claimant in respect of the crush injury he received to his left foot in the accident dated 16.05.2005, there cannot be any hesitation for me to hold that the appeal filed by the APSRTC deserves to be dismissed.

8. Accordingly, the appeal is dismissed. There shall be no order as to costs. Miscellaneous applications pending, if any, stand closed.

J.UMA DEVI, J

Date: 05.12.2018
DMG

