

THE HON'BLE MS.JUSTICE J.UMA DEVI

M.A.C.M.A.No.1038 of 2010

JUDGMENT:

Against the award dated 02.09.2009 passed in M.A.T.O.P.No.230 of 2008 on the file of the Motor Accidents Claims Tribunal-cum-Additional District Judge, Khammam, 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:

The petitioner by name Dhronajula Srinivasa Rao laid a claim against the driver of the APSRTC bus bearing No.AP 10 Z 9027, the Depot Manager of Manuguru Depot and the Divisional Manager of APSRTC, Khammam, who were arrayed as respondents 1 to 3 respectively in the aforementioned O.P, regarding the injuries he received in a road accident dated 15.07.2007. It was asserted by the petitioner that on 15.07.2007, while himself and his friend Sk.Abbas were proceeding towards their village Govindapuram on a scooter, when they reached near Narasimharaopet Village, Thallada Mandal, Khammam District, an APSRTC bus bearing No.AP 10 Z 9027 driven by the 1st respondent from Manuguru to Khammam side came in a rash and negligent manner and dashed the scooter; and as a result of it, he fell down and sustained (1) fracture to right temporal parietal bone (2) fracture to right frontal bone (3) fracture to right clavicle (4) fracture to scapula on right side (5) multiple fractures on right side (6) loss of teeth (7) multiple abrasions over the face (8) grievous bi-lateral parietal (OBO, Sulci, right Quadrigemind Cistern) and other injuries all over the body. Immediately after the accident, he was taken to the Government Head Quarters Hospital, Khammam, in 108 Ambulance; and as his condition was serious, he was shifted to Kinnera Super Specialty Hospital,

Khammam, where he was treated as an inpatient for more than one month and, during the course of treatment, costly medicines were used for quick healing of the injuries, CT scan was also taken and he spent Rs.50,000/- towards medical and other expenses. Police of Traffic Police Station, Khammam, registered a case in Crime No.145 of 2006 under Section 337 IPC against the 1st respondent-driver of the offending APSRTC bus. It was also asserted by the petitioner that, prior to the accident, he was hale and healthy and that he was working as a Supervisor in KTPS, Palvanha and was earning Rs.4,500/- per month towards his salary; due to the injuries he received in the accident, he was put to untold agony and could not attend to his normal duties and that he lost his earnings; and due to the fracture injury to his head, he has been suffering from headache frequently. He claimed compensation of Rs.1,00,000/- under the head of general and special damages. Thus, the petitioner laid a claim for a total sum of Rs.3,00,000/- as against the respondents.

The petitioner, to substantiate his claim, got himself examined as P.W.1 and marked Exs.A.1 to A.5. He also examined P.W.2-Dr.P.Sathish Kumar who gave treatment to him at Kinnera Super Specialty Hospital, Khammam.

The Court below, on appreciation of the oral and documentary evidence available on record, believed the contention of the petitioner that the accident, which resulted in the injuries to him, was caused by the 1st respondent who was the driver of the APSRTC bus bearing No.AP 10 Z 9027, awarded compensation of Rs.2,11,500/-, and held all the respondents liable to pay such compensation jointly and severally. Having been aggrieved by the award so passed by the Court below, respondents 2 and 3 came before this Court by preferring the present appeal.

The main contention of respondents 2 and 3 is that though it was not established by the petitioner that the driver of the APSRTC bus bearing No.AP 10 Z 9027 was responsible for causing the accident in question, by examining an eye-witness to the said accident, the Court below held that the 1st respondent, who was the driver of the APSRTC bus bearing No.AP 10 Z 9027 at the relevant point of time, was at fault and it was only due to his negligent driving of the said APSRTC bus, the accident in question took place. The second contention raised by respondents 2 and 3 is that both the compensation amount of Rs.2,11,500/- and the interest awarded by the Court below are on high side.

The petitioner, to substantiate his contention that the accident dated 15.07.2007 which resulted several fracture injuries to him was caused by the driver of the APSRTC bus bearing No.AP 10 Z 9027, got examined him as P.W.1. Since P.W.1 is an injured witness, there is no need of examination of any other eye-witness to support his testimony as he himself is an eye-witness to the accident. The evidence adduced by P.W.1 regarding the manner of the accident is corroborated in all aspects by the documentary evidence produced by him viz, Exs.A.1 to A.5. The Court below relying on the evidence of P.W.1, whose evidence is fully supported by Exs.A.1 to A.5, has rightly observed that, it is only due to the negligent driving of the APSRTC bus by the 1st respondent, the accident dated 15.07.2007 in which the petitioner sustained injuries has occurred.

Coming to the other contention raised by respondents 2 and 3 that both the compensation amount of Rs.2,11,500/- and the interest awarded by the Court below are on high side is concerned, it is evident from Ex.A.3-copy of wound certificate and Ex.A.4-discharge summary card that the petitioner has sustained (1) fracture to right temporal

parietal bone (2) fracture to right frontal bone (3) fracture to right clavicle (4) fracture to scapula on right side (5) multiple fractures on right side (6) loss of teeth (7) multiple abrasions over the face (8) grievous bi-lateral parietal (OBO, Sulci, right Quadrigemind Cistern) and other injuries all over the body. The petitioner was initially taken to the Government Head Quarters Hospital, Khammam in 108 Ambulance and as his condition was precarious, he was then shifted to Kinnera Super Specialty Hospital, Khammam for better treatment and there he obtained treatment as an in-patient from 17.07.2007 to 31.07.2007 i.e nearly for a period of 15 days. The Court below, on keen perusal of the medical bills, which the petitioner had produced in support of his contention that a huge amount was incurred by him towards medical expenditure which is nearly Rs.1,00,000/-, had awarded a sum of Rs.70,000/- towards medical and other incidental expenditure. The Court below, after careful consideration of the evidence on record, which established that the petitioner was provided treatment at Kinnera Super Specialty Hospital for a period of 15 days, awarded a sum of Rs.1,050/- towards loss of earnings during the period of treatment, and on close scrutiny of the evidence on record, particularly the evidence of P.Ws.1 and 2 and Ex.A.3, awarded a sum of Rs.1,40,000/- in respect of seven grievous injuries received by him, i.e at the rate of Rs.20,000/- per each grievous injury, and a sum of Rs.1,500/- in respect of a simple injury received by him. Thus, the Court below has awarded a total compensation of Rs.2,11,500/-. While computing compensation no error was committed by the Court below and this Court did not notice any patent irregularity in awarding compensation of Rs.2,11,500/- to the petitioner.

The compensation awarded by the Court below appears to be just and reasonable and the same, in my view, needs no indulgence. The Court below, on thorough appreciation of the evidence on record, has

also rightly held respondents 1 to 3 liable to pay the compensation amount jointly and severally together with interest at the rate of 7.5% per annum from the date of filing the claim petition till realization. Since no patent irregularity is noticed in the impugned award, the appeal deserves to be dismissed.

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

11th July, 2018
JSU

J. UMA DEVI, J



THE HON'BLE MS.JUSTICE J.UMA DEVI



M.A.C.M.A.No.1038 of 2010

Date: 11.07.2018

JSU