

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2978 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), is filed by the appellant-APSRTC, aggrieved by the grant of compensation of Rs.1,35,000/- as against a claim of Rs.1,50,000/- to the sole respondent/claimant, by the Motor Accident Claims Tribunal-cum-II Additional District Judge (FTC), Medak at Sangareddy ('the Tribunal', for brevity), vide order, dated 18.11.2004, passed in M.V.O.P.No.187 of 2002.

2. Heard the learned counsel for both sides and perused the record.

3. The learned Standing Counsel for the appellant-RTC would contend that the Tribunal granted excess compensation of Rs.1,35,000/- with interest @ 9% per annum from the date of petition till realisation in favour of the respondent/claimant, for four simple injuries and one fracture injury suffered by him in the subject accident occurred on the intervening night of 5/6.12.1995. The Tribunal erred in ignoring the fact that the claimant took treatment at Osmania General Hospital. The Tribunal ought not have granted compensation under the heads pain and suffering, continuity form permanent disability, loss of expectation of life and loss of enjoyment of life and ultimately prayed to allow the appeal by setting aside the Order under challenge.

4. On the other hand, the learned counsel for the sole respondent-claimant would contend that the claimant suffered four simple injuries and one fracture to his right lower limb in the subject accident. The claimant underwent a surgery for correction of the fractured leg and a rod was fixed. The Tribunal took all the relevant factors into consideration and granted just and reasonable compensation of Rs.1,35,000/- with interest @ 9% per annum from the date of petition till realisation. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the respondent-claimant sustained injuries in the subject accident occurred on the intervening night of 5/6.12.1995, due to rash and negligent driving of the driver of the RTC bus bearing registration No.AP-09-Z-7582. The only point that arises for determination in this appeal is whether the compensation of Rs.1,35,000/- with interest @ 9% per annum from the date of petition till realisation granted by the Tribunal in favour of the respondent-claimant is just and reasonable or liable to be reduced.

6. To substantiate the claim of the claimant, the claimant himself deposed as P.W.1, got examined one Dr.B.S.Reddy as P.W.2 (through Advocate Commissioner) and got marked Ex.A.1-Certified copy of FIR along with complaint in Cr.NO.193/95, Ex.A.2-Certified copy of Charge-sheet, Ex.A.3-Certified copy of observation panchanama, Ex.A.4-Certified copy

of Medico Legal Report (3 Nos.) issued by Medical Officer, Zaheerabad, Ex.A.5-Certified copy of Medical Certificate issued by Osmania General Hospital, Hyderabad, Ex.A.6-Out-patient medical record of NIMS, Ex.A.7-Out-patient card, Ex.A.8-Out-patient ticket of Osmania General Hospital, Hyderabad, Ex.A.9-Medical prescriptions, Ex.A.10-X-Ray films and prescriptions along with Reports, Ex.A.11-Medical bills for Rs.18,898.68 ps., and Ex.A.12-Bus ticket for Rs.29-00 from Hyderabad to Zaheerabad.

7. As per the medical evidence, the claimant suffered four simple injuries and one fracture to his right lower limb in the subject accident. The claimant underwent an operation for correction of fractured leg and a rod was fixed. In the year 1999, the rod was removed at Maruthi Hospital, Hyderabad. There is evidence of P.W.2-doctor that there was shortening of the right leg of the claimant and he estimated the disability suffered by the claimant as 40%. The Tribunal granted a compensation of Rs.1,35,000/- with interest @ 9% per annum from the date of application till realisation in favour of the claimant, as detailed below.

|       |                                              |                |
|-------|----------------------------------------------|----------------|
| 1.    | Towards four simple injuries                 | Rs.10,000/ -   |
| 2.    | Towards one fracture injury                  | Rs.20,000/ -   |
| 3.    | Towards medical expenses                     | Rs.20,000/ -   |
| 4.    | Towards Transportation                       | Rs.5,000/ -    |
| 5.    | Towards Extra-nourishment                    | Rs.5,000/ -    |
| 6.    | Towards loss of earnings                     | Rs.5,000/ -    |
| 7.    | Towards loss of future income                | Rs.5,000/ -    |
| 8.    | Towards pain and suffering                   | Rs.13,000/ -   |
| 9.    | Towards continuity from permanent disability | Rs.13,000/ -   |
| 10.   | Towards loss of expectation of life          | Rs.13,000/ -   |
| 11.   | Towards loss of enjoyment of life            | Rs.13,000/ -   |
| 12.   | Towards mental agony and hardship            | Rs.13,000/ -   |
| TOTAL |                                              | Rs.1,35,000/ - |

8. Admittedly, the subject accident occurred in the year 1995. The earning capabilities of the persons in those days were not much. In view of the nature of injuries suffered by the claimant in the subject accident, the Tribunal is justified in granting Rs.10,000/- for four simple injuries, Rs.20,000/- for one fracture injury, Rs.20,000/- towards medical expenses and Rs.5,000/- each towards transportation charges, extra-nourishment, loss of earnings and future income.

9. The Tribunal is also justified in granting compensation of Rs.13,000/- each towards pain and suffering and continuity from permanent disability. When the Tribunal granted a compensation of Rs.13,000/- for permanent disability and it also granted compensation on different heads as indicated above, the Tribunal ought not to have granted compensation of Rs.13,000/- each towards loss of expectation of life, loss of enjoyment of life and mental agony and hardship. Therefore, there is no justification in granting the said amounts. The said amounts i.e. Rs.39,000/-, are liable to be reduced from the compensation amount awarded by the Tribunal. Thus, the compensation awarded by the Tribunal is reduced from Rs.1,35,000/- to Rs.96,000/-.

10. The Tribunal granted interest at the rate of 9% per annum on the amount granted as compensation from the date of petition till realisation. It is apt to refer to the decision of the Apex Court in Dharampal Vs. State Road Transport

Corporation<sup>1</sup>, wherein, the Apex Court awarded interest at the rate of 7.5% per annum on the amount awarded as compensation. There are number of other decisions, wherein, interest was awarded at the rate of 7.5% per annum on the amount awarded as compensation. In view of the same, awarding interest at the rate of 9% per annum on the amount awarded as compensation by the Tribunal is held excessive.

11. Accordingly, this appeal is allowed in part modifying the Order, dated 18.11.2004, passed in M.V.O.P.No.187 of 2002 by the Tribunal, reducing the amount granted as compensation from Rs.1,35,000/- to Rs.96,000/- with interest @ 7.5% per annum on the amount granted as compensation (Rs.96,000/-) from the date of application till realisation. On deposit, the claimant is entitled to withdraw the compensation along with interest accrued thereon. The other terms of the Order under challenge remain unaltered. No costs.

Miscellaneous Petitions pending, if any, shall stand closed.

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Dr. SHAMEEM AKTHER, J

10<sup>th</sup> September, 2018  
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<sup>1</sup> MANU SC 7680 2008