

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3456 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/A.P.S.R.T.C., represented by its Managing Director, Musheerabad, Hyderabad (presently, T.S.R.T.C.), aggrieved by the grant of total compensation of Rs.1,00,000/- to the respondent/claimant together with proportionate costs and interest at the rate of 9% per annum from the date of petition till the date of realisation, by the learned II Additional District and Sessions Judge (Fast Track Court), Medak at Sangareddy *vide* order, dated 31.01.2005, passed in M.V.O.P.No.239 of 2002.

2. Heard the submissions of the learned Standing Counsel appearing for the R.T.C. representing the appellant. Though the matter is listed under the caption "For Orders", there is no representation for the respondent/claimant. The matter pertains to the year 2005. So, it can be disposed of basing on the material available on record. Perused the material on record.

3. Learned Standing Counsel for the R.T.C. representing the appellant would contend that the claimant suffered three grievous injuries, two simple injuries and amputation of right toe, but the Tribunal granted a compensation of Rs.1,00,000/- with interest at the rate of 9% per annum, which is excessive and not in consonance with the injuries suffered by the claimant and the consequences arose therefrom; that the incident occurred due to collision between two vehicles i.e., R.T.C. Bus bearing

No.AP-10-Z-2433 driven by R.W.1 and the Motor Cycle bearing No.AP-B-2762 of the claimant, and that there is evidence of R.W.1 – driver of R.T.C. Bus bearing No.AP-10-Z-2433 to substantiate the rashness and negligence on the part of the claimant in driving the Motor Cycle bearing No.AP-B-2762, but the Tribunal has not considered the same and erroneously directed the appellant to pay the compensation, and ultimately, prayed to reduce the compensation.

4. In view of the submissions made by the learned Standing Counsel appearing for the R.T.C., the following points have come up for determination:

- “1. Whether there was any negligence on the part of the claimant in driving the Motor Cycle bearing No.AP-B-2762? and***
- 2. Whether the Tribunal is justified in granting compensation of Rs.1,00,000/- with interest at the rate of 9% per annum to the claimant?”***

5. **POINT No.1:-**

Ex.A-1 is the certified copy of F.I.R. along with complaint in Crime No.37 of 1998 of Pulkal Police Station, Ex.A-2 is the certified copy of scene of offence panchanama, Ex.A-3 is the certified copy of M.L.C. and Ex.A-4 is the certified copy of charge sheet in Crime No.37 of 1998 of Pulkal Police Station. All these documents i.e., entire criminal case record reveal the rashness and negligence on the part of the driver of R.T.C. Bus bearing No.AP-10-Z-2433. R.W.1 – driver attributed negligence on the part of the claimant in driving the Motor Cycle bearing No.AP-B-2762. He is an interested person. There is no reason for the police officials to fabricate a

criminal case against the driver of the R.T.C. bus. The evidence of P.W.1 coupled with the above mentioned documents establish the rashness and negligence on the part of the driver of the R.T.C. bus bearing No.AP-10-Z-2433. The Tribunal rightly held so. There is nothing to take a different view.

6. **POINT No.2:-**

While dealing with the subject matter, basing on the evidence of P.W.1 and P.W.2 – Dr.J.D.Satish Kumar and relying on the medical record, it can be safely concluded that the claimant suffered the following injuries:

- “1. Traumatic amputation of right little toe.***
- 2. Fracture Tibula upper 3rd right leg.***
- 3. Fracture neck of 5th Metacarpal bone on right side.***
- 4. Fracture face of 2nd Metacarpal on right side.***
- 5. A big laceration about 6 x 15 x 2 cm on right leg below knee exposing tibia.***
- 6. Laceration 5 x 8 x ½ cm on Dorsum of right foot.”***

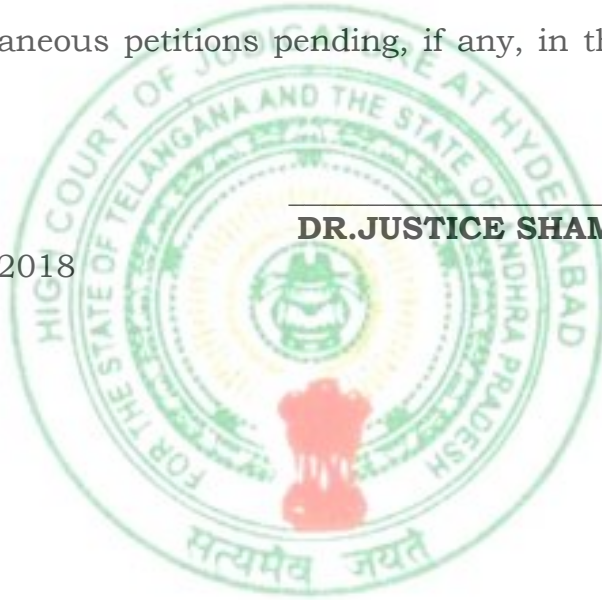
There is ample record with regard to the medical expenses incurred by the claimant, hospital charges etc. There is nothing to disbelieve the aforementioned injuries suffered by the claimant. Having considered the same, the Tribunal was pleased to grant a total compensation of Rs.1,00,000/- i.e., Rs.60,000/- towards three fracture injuries including pain and suffering, Rs.6,000/- towards two simple injuries, Rs.12,000/- towards amputation of right toe, Rs.3,500/- towards medical expenses, Rs.3,000/- towards compensation for mental agony, Rs.3,000/- towards extra nourishment, Rs.2,500/- towards transportation charges, Rs.2,500/- towards loss of future income, Rs.2,500/- towards loss of amenities of life, Rs.2,500/- towards loss of expectation of life

and Rs.2,500/- towards loss of enjoyment of life. Grant of compensation of Rs.1,00,000/- with interest at 9% per annum for the injuries aforementioned and the consequences arose therefrom, cannot be held as excessive. There is justification on the part of the Tribunal in granting the same. There are no grounds to take a different view. 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.

Date : 18.09.2018
AMD

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