

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

MACMA.No.3605 of 2005

JUDGMENT:

This appeal is filed against the order dated 16-09-2004 in OP.No.537 of 2001 by the appellants for awarding compensation of Rs.1,78,800/- out of claim of Rs.5.00 lakhs for the injuries sustained by respondent in motor vehicle accident.

The appellants herein, were Andhra Pradesh Road Transport Corporation (APSRTC) and the Depot Manager who are respondents, while respondent herein was the petitioner, in the original petition.

For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

The factual background of the case in brief is that on 27-08-1999 at about 4.30 pm when the petitioner and his friend were waiting to board an RTC bus near Madina bus stop, the driver of the bus bearing No.AP 9Z 2958 came in a rash and negligent manner went towards its extreme left side of the road and dashed the petitioner. Due to which, the petitioner sustained multiple injuries i.e. fracture on his right hand, punctured wound on

urinary bladder resulted in severe bleeding from his stomach. The petitioner was shifted to Osmania General Hospital and he fell unconscious for a long time. The petitioner has undergone operation in M/s.Mother Theresa Hospital and admitted in Osmania General Hospital for treatment with Urologist as in patient for about three months. The police, Charminar registered a case in Cr.No.126/1999. Therefore, the petitioner sought for compensation of Rs.5.00 lakhs towards compensation

The respondent-Corporation filed counter denying the allegations made in the petition and further contended that the petitioner is to be put to strict proof regarding the manner of accident, age, income and his occupation on the date of accident. The cause of accident is not rash and negligent driving on the part of the driver of the RTC bus but negligence on the part of the petitioner. The amount of compensation claimed by the petitioner is highly excessive and prayed to dismiss the claim of the petition with costs.

On the basis of above pleadings, the following issues are settled for trial:

1. Whether the petitioner sustained injuries due to rash and negligent driving of respondent bus by its driver?

2. Whether the petitioner is entitled for compensation, if so, to what amount?
3. To what relief?

After considering the evidence of PWs 1 to 4 examined on behalf of petitioners and Exs A-1 to A-13 granted an amount of Rs.1,78,800/- with interest at 9% per annum from the date of filing of petition till the date of deposit of the amount into the Court, out of claim of Rs.5.00 lakhs. Against same, the present appeal is filed.

Learned counsel for the appellant submits that the respondent himself is negligent and there is no rash and negligent driving by the driver of the appellant-Corporation. He also submits that the compensation granted is excessive, as compensation is granted for injuries suffered by the respondent as well as pain and suffering and for permanent disability is also granted.

In this case, the Tribunal relying on the evidence of PW.2 who was accompanying the respondent/claimant came to conclusion that the RTC bus bearing No.AP 9Z2958 came in high speed and rash and negligent manner towards extreme left side and dashed the respondent. Due to which, the respondent fell down and sustained injuries. It is also found that the respondent

was shifted to Osmania General Hospital. It is also found that nothing could be elicited against the respondent in the cross-examination of PW.2 by the appellant-Corporation and no rebuttal evidence was let in by the appellant before the Tribunal. Basing on the same, the Tribunal came to conclusion that the accident occurred due to rash and negligent driving of the driver of appellant-Corporation. As such, the contention of the appellant that the Tribunal have given wrong conclusion cannot be accepted.

As far as the quantum of compensation is concerned, the Tribunal has granted compensation for the following heads:

a) Fractures	Rs.65,000/-
b) Pain and suffering extra-nourishment, transportation.	Rs.30,000/-
c) Medical attendant	Rs.1,000/-
d) Permanent disability	Rs.75,000/-
e) Loss of income	Rs.4,000/-
f) Medical expenses	Rs.3,818/-
Total	Rs.1,78,818/-

In this case it is to be seen that as pointed by learned counsel for the appellant compensation towards

permanent disability is granted at Rs.75,000/- and towards pain and suffering and extra nourishment, transportation, an amount of Rs.30,000/- was granted and an amount of Rs.65,000/- was granted towards fractures. This Court is of the opinion that the amount granted towards fractures is on higher side and the Tribunal ought not to have granted compensation towards pain and suffering, extra-nourishment, transportation, this Court feels that Rs.65,000/- will be sufficient, which was granted towards fractures again grant of Rs.30,000/- is not warranted. In view of the same, compensation is reduced by Rs.30,000/- from the total compensation.

Thus, the petitioners are entitled to a total sum of Rs.1,48,800/- (Rupees Forty eight thousand and eight hundred only) instead of Rs.1,78,800/- granted by the Tribunal, towards compensation and the same is accordingly modified.

Accordingly, the appeal is partly allowed to the extent indicated above by modifying the compensation, as indicated above, and confirming the same in all other respects, including the rate of interest. There shall be no order as to costs. As a sequel thereto, miscellaneous

applications, if any pending in the instant appeal, stand disposed of.

A.RAJASHEKER REDDY,J

11-02-2019

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