

HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

M.A.C.M.A.No. 2153 OF 2005

JUDGMENT:

- 1) The present appeal is filed under Section 173 of Motor Vehicles Act, against the order and decree, dated 05.01.2005, in O.P.No.383 of 1999 on the file of the Chairman, Motor Accidents Claims Tribunal (V Additional District Judge), Nizamabad, for enhancement of the compensation by the appellant-injured.
- 2) The appellant is the petitioner and the respondent No.1 is the owner and respondent No.2 is the Manager of the RTC bus involved in the accident, before the Tribunal.
- 3) For the sake of convenience, the parties are hereinafter referred to as they are arrayed in the O.P. before the tribunal.
- 4) The facts in brief are as under:

The petitioner filed O.P.No. 383 of 1999 seeking compensation of Rs.1,50,000/- for the injuries sustained by him in a road accident that occurred on 19.01.1999 while the petitioner and one Aarutla Raghupathi were going on bullock cart from Bhiknoor side towards Kamareddy on their left side of the road, when they reached on NH No.7, near Patharajampet old Check Post at about 8.00 p.m., one RTC bus bearing No.AP-9Z-5507 driven by its driver in a rash and negligent manner with high speed and dashed against the bullock cart from its behind. As a result of which, the petitioner fell down and sustained fracture of left

thigh, fracture of left shoulder, injuries on face, fracture of right jaw and multiple and grievous injuries all over the body. The bullock cart was also completely damaged and both the bulls were received grievous injuries. Immediately, the petitioner was shifted to Government Hospital, Kamareddy, where he was treated for some time and thereafter he took treatment in private hospitals and incurred a sum of Rs.80,000/- towards medical expenses. The accident occurred only due to rash and negligent driving of the driver of the RTC bus.

It is stated that at the time of accident, the petitioner was aged about 25 years and he was earning Rs.10,000/- per month as a Shepherd as well as agriculturist. Due to the injuries sustained by him in the accident, he sustained disability and lost his income. Therefore, the petitioner estimated his claim to the tune of Rs.46,35,000/- under various heads which are as under:

FOR SPECIAL DAMAGES:

- | | |
|--|-----------------|
| a) Loss of earnings from the date of accident | Rs.43,20,000-00 |
| b) Transport to hospital, extra nourishment and others | Rs. 80,000-00 |
| c) Damages to Bullock cart | Rs. 15,000-00 |

FOR GENERAL DAMAGES

- | | |
|--|------------------|
| a) Compensation for pain and suffering | Rs. 1,00,000-00 |
| b) Compensation for permanent disability | Rs. 1,00,000-00 |
| | ----- |
| Total: | Rs. 46,35,000-00 |

But the petitioner restricted his claim to a sum of Rs.1,50,000/- and both the respondents are liable to pay the same being owner and the Manager of the Crime vehicle-bus respectively.

5) Respondent Nos.1 and 2 filed common written statement denying the mode of the accident, nature of injuries sustained by the petitioner, age, avocation and income of the petitioner. It is also stated that the driver of the bus noticed that a bullock cart was proceeding in front of the bus and as there was a slope he slowed down the bus and proceeded by blowing horn, meanwhile, a lorry came in opposite direction. Due to the lights of the lorry bulls got frightened and suddenly pulled the cart towards right side and came in front of the bus. Though the driver of the bus applied breaks, but however front portion of the bus came into contact with the back portion of the bullock cart. It is stated that the accident occurred only due to un-avoidable circumstances. It is also stated that the claim of the petitioner is excessive and hence prayed to dismiss the petition.

6) Basing on the pleadings in the petition and written statement, the tribunal framed the following issues:

- i) Whether the petitioner is entitled to compensation sought for?
- ii) To what relief the petitioner is entitled?

7) In order to prove his claim, the claimant got examined himself as PW.1 and the eye witness as PW.2 and got marked Exs.A1 to A3

and Ex.C1. Neither oral nor documentary evidence was adduced on behalf of the respondents.

8) Considering the evidence on record, the claims tribunal awarded compensation of Rs.12,000/- in favour of the petitioner and against the respondents with interest @ 7.5% per annum from the date of petition till date of realization. Challenging the quantum of compensation awarded by the Tribunal the petitioner, who is the claimant, filed the present appeal.

9) Learned counsel for the appellant/petitioner submits that though the petitioner suffered one grievous injury the Tribunal granted only an amount of Rs.12,000/- treating all the injuries as simple injuries towards pain and suffering and no amount was granted towards loss of earnings though the petitioner was hospitalized for a period of one week.

10) On the other hand, learned Standing Counsel for RTC submits that since the doctor was not examined by the petitioner and the petitioner has not filed any X-ray, the Tribunal treated all the injuries as simple injuries and granted just compensation and no interference is called for.

11) In this case it is to be seen that Ex.A3-Wound Certificate shows that injury No.6 is a grievous injury. Even in the charge sheet- Ex.A2 goes to show that the appellant/petitioner suffered grievous injuries and the charge sheet is filed after investigation of the crime. The Tribunal only granted compensation towards pain and suffering but no amount is granted towards loss of earnings while

the petitioner was hospitalized for a period of one week. In view of the above, this Court is of the opinion that the compensation awarded by the Tribunal needs to be enhanced.

12) In this case, as per the wound certificate-Ex.A3, the petitioner has sustained five simple injuries and one grievous injury. Since the petitioner could not prove that he suffered with permanent disability as rightly held by Tribunal, no amount can be granted under the heads. As the petitioner has sustained five simple injuries and one grievous injury an amount of Rs.2,000/- for each simple injury and Rs.25,000/- for grievous injury is granted and the amount awarded towards pain and suffering is increased from Rs.12,000/- to Rs.25,000/-. Thus, in all petitioner is entitled to Rs.60,000/-.

13) Accordingly, the Appeal is allowed in part by enhancing the compensation from Rs.12,000/- to Rs.60,000/- with interest at 7.5%p.a. from the date of petition till the date of realization and in all other respects the order of the Tribunal is confirmed.

14) As a sequel, miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

13.02.2019
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