

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.1520 OF 2006

JUDGMENT:

This appeal is filed by the appellants/respondents/APSRTC aggrieved by the Order and Decree dated 06.01.2006 passed in O.P.No.1758 of 2004 by the II Additional Metropolitan Sessions Judge, Hyderabad-cum-XVI Additional Chief Judge, Hyderabad (for short, the Court below).

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

3. The brief facts of the case are that on 25.05.2004 at about 3.30 p.m., while the petitioner was proceeding on Hero Honda motorcycle bearing No.AP 10BL T/R 7936 along with one Bal Reddy from Hyderabad and when they reached near Chengicherla Cross Roads, one APSRTC bus bearing No.AP 10Z 7472 came in rash and negligent manner at high speed and dashed the motorcycle of the petitioner, due to which the petitioner and his friend Bal Reddy fell down and received injuries. The petitioner was working as driver and earning Rs.4,000/- per month as salary. In the accident, the petitioner stated that he sustained Basicervical fracture neck of femur right, compound fracture of right femur, fracture of both bones of right leg and other multiple injuries, as such he

states that he is entitled to compensation of Rs.3,00,000/-, payable by the respondents.

4. Before the Court below, the respondents filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

5. After considering the oral evidence of P.Ws.1 to 4 and the documentary evidence of Exs.A-1 to A-15 & Ex.X-1, the Court below came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the APSRTC bus and awarded total compensation of Rs.5,98,400/- i.e., Rs.3,02,400/- towards loss of disability, Rs.2,50,000/- towards medical expenses, Rs.20,000/- towards pain & suffering, Rs.21,000/- towards loss of income and Rs.5,000/- towards extra nourishment, transportation and attendant charges, with interest @ 7.5% per annum from the date of petition till the date of deposit, payable by both the respondents. Aggrieved by the same, the appellants/respondents/APSRTC filed the present appeal.

6. Heard C.Vikram Chandra, learned standing counsel for the appellants/respondents/APSRTC. Perused the material record.

7. Sri C.Vikram Chandra, learned standing counsel for the appellants, submitted that the Court below has not taken the

appropriate multiplier while determining the compensation under the head of loss of disability and sought to enhance the compensation under that head.

8. While determining the compensation, the multiplier applied by the Court below in view of the disability is '18', but as per the decision reported in **Sarla Verma and others v. Delhi Transport Corporation and Another**¹, since the age of the claimant is 27 years, the multiplier of '17' has to be applied. As the income of the claimant was taken at Rs.3,500/- per month by the Court below, this Court is also inclined to consider the same. Therefore, the annual income of the claimant comes to Rs.42,000/- (Rs.3,500/- X 12 months). The multiplier for the age of the claimant is '17' and the Court below has taken the disability @ 40%. Hence, the compensation under the head 'loss of disability' comes to Rs.2,85,600/- (Rs.42,000/- X 17 X 40%). Except the said modification, the remaining operative portion of the impugned order is confirmed. Hence, the total compensation under various heads is as follows:

Sl.No.	Name of Head	Awarded by Tribunal	Awarded by this Court
01.	Loss of disability	Rs.3,02,400/-	Rs.2,85,600/-
02.	Medical expenses	Rs.2,50,000/-	Rs.2,50,000/-
03.	Pain & suffering	Rs.20,000/-	Rs.20,000/-
04.	Loss of income	Rs.21,000/-	Rs.21,000/-
05.	Extra nourishment, transportation & attendant charges	Rs.5,000/-	Rs.5,000/-
TOTAL		Rs.5,98,400/-	Rs.5,81,600/-

¹ (2009) 6 SCC 121

9. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by reducing the compensation amount awarded by the Court below from Rs.5,98,400/- to Rs.5,81,600/-. The compensation amount shall carry interest @ 7.5% per annum from the date of petition till the date of realization, payable by the appellants. The appellants are directed to deposit the compensation amount along with proportionate costs and interest within two (02) months from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the entire amount. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 18th October, 2019

KL