

THE HON'BLE SRI JUSTICE P. KESHA RAO

MACMA.No.1591 of 2011

JUDGMENT:

Heard the learned counsel for the appellant-corporation and the respondent.

2. Questioning the quantum of compensation awarded in OP.No.431 of 2009 dated 28.07.2010, the appellant-corporation has come up with the present appeal.

3. The facts of the case are that on 13.12.2008 the respondent herein was travelling in a bus bearing No.AP-28/Z-2326 from Hyderabad towards Nizamabad. At about 8 AM, when the bus reached Annapurna Rice Mill, Ramayampet Village Shivar, Medak District on Hyderabad to Nagpur national highway, the driver of the bus drove it in a rash and negligent manner, in high speed and dashed against the lorry bearing No.AP-24/X-2588, which was parked on the road side. In the said accident, the respondent sustained right ankle fracture, right leg fracture, right knee fracture, right foot, injuries to left leg, head injury and other multiple injuries all over the body. The respondent averred that the said accident occurred due to the rash and negligent driving of the driver of the bus. Due to the injuries sustained, he could not move from the bed and could not walk and work. He was unable to attend to his regular duties, his future earnings and amenities were also affected. In those circumstances, he claimed a compensation of Rs.3,00,000/-.

4. To substantiate his contentions, the respondent examined himself as P.W.1 apart from P.Ws.2 and 3 and marked Exs.A1 to A9.

On behalf of the appellant-corporation, no one was examined and no documents were marked.

5. After considering the rival contentions and appreciating the evidence brought on record, particularly, the evidence of P.W.3 and Exs.A3 and A9, the tribunal below awarded a sum of Rs.1,18,839/- under different heads. Aggrieved by the said order, the present appeal came to be filed by the appellant-corporation.

6. Learned counsel for the appellant-corporation contended that the compensation, as awarded for the fracture of ankle and fracture of fibula, is excessive. The award of compensation under the head of medical bills is also without any evidence. The tribunal below also erred in awarding separate compensation for pain and suffering when, admittedly, compensation was awarded for the fractures.

7. Learned counsel for the respondent supported the impugned order.

8. Having heard both the counsel and on a perusal of the material on record, it is revealed that the respondent examined himself as P.W.1. In his evidence, he has narrated the contents of the claim petition and how the accident has taken place. Though he has been cross-examined by the appellant counsel, nothing has been elicited to discredit the evidence of the respondent vis-à-vis negligence of the driver of the bus. Therefore, the tribunal below gave a categorical finding that the accident in question occurred only on account of rash and negligent driving of the driver of the bus.

9. Now coming to the question of injuries and the quantum arrived at is concerned, P.W.1 has stated that in the said accident he sustained right ankle fracture, right leg fracture, right knee fracture, injuries to left leg, head injury and other multiple injuries all over the body. Immediately, after the accident, he was taken to the Government Hospital, Ramayampet and on the same day, he was referred to Gandhi Hospital, Secunderabad. He was also admitted in Maithri Hospital, Nizamabad, where he was treated by Dr. C. Hari Prasad Rao, M.S., Orthopaedic Surgeon (P.W.3). He was treated by him and his right leg was operated twice and rods were also inserted. P.W.2, in his chief examination, stated that the respondent sustained injuries in the accident occurred on 13.12.2008 and he took treatment in various hospitals and incurred an amount of Rs.2,50,000/- towards treatment, special diet etc. The respondent also engaged two attendants to serve him by paying Rs.2,000/- each. In fact, the respondent was hale and healthy prior to the accident and was doing agriculture by raising commercial crops like turmeric, vegetables etc. However, after the accident, his health has been totally deteriorated and he has not been able to continue the same work, which he used to do earlier.

10. P.W.3, Orthopaedic Surgeon, deposed that he is running Maithri Hospital, Khaleelwadi, Nizamabad. On 13.12.2008, the respondent was brought to his hospital stating that he sustained injuries in a road accident. He was admitted as in-patient and on examination, he found right ankle fracture, fracture of right fibula deltoid ligament injury etc. He also deposed that during the course of treatment, the respondent

was suffering with pain and not feeling well. A major surgery was conducted and plates were fixed with screws. The fracture injuries are grievous in nature. He also specifically deposed that since the injured sustained a fracture to his fibula 1-3 deltoid ligament injury, he cannot do work like earlier, he cannot lift heavy weights, he cannot walk briskly and cannot sit and squat like earlier.

11. After appreciation of the said evidence, the tribunal below awarded a sum of Rs.25,000/- and Rs.40,000/- towards compensation for fracture of ankle and fracture of fibula. As far as the medical bills are concerned, since the respondent produced medical bills (29 in number) in the form of Ex.A6 to the tune of Rs.26,839/-, the tribunal awarded the same amount. The tribunal also awarded a sum of Rs.15,000/- towards pain and suffering, Rs.5,000/- towards transportation charges, Rs.2,000/- towards special diet and Rs.5,000/- towards loss of earnings.

12. When the respondent sustained grievous injuries in the form of fracture to the ankle and fracture to the fibula, he underwent major surgery whereby plates were fixed with screws and P.W.3 has categorically deposed that the respondent suffered with severe pain due to the grievous injuries, this Court is of the opinion that there is no irregularity or illegality in awarding the sum of Rs.25,000/- and Rs.40,000/- towards compensation for the fracture of ankle and fracture of fibula respectively.

13. Though the learned counsel for the appellant-corporation contended that the amount awarded under the head medical expenses

is without any basis, the record discloses that Ex.A6, in the form of 29 medical bills, support the contention of the respondent. Therefore, the contention of the counsel for the appellant-corporation that the award of compensation under medical bills, is without any evidence, cannot be countenanced.

14. Since the respondent suffered two grievous injuries and he was in-patient in the hospital from 13.12.2008 to 24.12.2008 and suffered severe pain, the award of Rs.15,000/- towards pain and suffering is justifiable. In these circumstances, this Court is of the opinion that the compensation, as awarded by the tribunal below, is reasonable. Therefore, there are no grounds to interfere with the impugned order and the appeal is devoid of merits.

Accordingly, the motor accident civil miscellaneous appeal is dismissed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

February 13, 2019
DSK

P. KESHAVA RAO, J