

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A.No.1627 of 2014

JUDGMENT:

Appellant-APSRTC filed this appeal challenging the Award dated 01.10.2012 passed in M.V.O.P.No.10 of 2009 by the Judge, Family Court-cum-Additional District Judge at Mahabunagar, granting compensation of Rs.3,95,000/- together with interest at 6% per annum as against the claim of Rs.10,00,000/- on account of the injuries sustained by the respondent-claimant-injured in the motor vehicle accident occurred on 20.11.2008.

2. Heard. Perused the record.

3. Brief facts of the case are that on 20.11.2008, while the claimant was proceeding to Jadcherla from Shadnagar along with his relative on a motor cycle and when they reached near the by-pass road on N.H.No.7, the driver of the bus bearing No.AP11-Z-3687 drove the bus in a rash and negligent manner with high speed and dashed the motor cycle of the claimant in opposite direction, due to which the claimant as well as the pillion rider fell down and the claimant sustained head injury, compound depressed fracture of frontal bone, pan facial fracture and other multiple injuries all over the body. Immediately, he was shifted to Government Hospital, Hyderabad, from there he was shifted to Yashoda Hospital, Malakpet, Hyderabad, where he undergone several surgeries and discharged on 14.12.2008. It is also alleged that the injured also took treatment at Smile Dental Hospital, Hyderabad. Hence, the claimant filed claim petition before the Tribunal seeking compensation of Rs.10,00,000/- since he was

permanently disabled due to the injuries sustained by him in the said accident.

4. The respondent-Corporation filed written statement denying the material averments of the claim petition and contending that due to negligence of the injured and the pillion rider, the accident was occurred.

5. Based on the above pleadings, the Tribunal framed the following issues for its consideration:

1) Whether the petitioner received injuries in the accident occurred on 20.11.2008 on N.H.No.7 near bypass road at Shadnagar due to the rash and negligent driving of driver of RTC bus bearing No.AP.11.Z.3687?

2) Whether the petitioner is entitled for compensation, if so to what amount and from whom?

3) To what relief?

6. In support of his claim, claimant got examined PWs 1 to 4 and got marked Exs.A.1 to A.7. On behalf of the appellant-Corporation, no oral and documentary evidence was adduced. After appreciating the oral and documentary evidence available before it, the Tribunal passed the impugned award granting compensation of Rs.3,95,000/- along with costs and interest @ 6% per annum payable by appellant-Corporation. Aggrieved by the quantum of compensation, the Corporation filed this appeal.

7. Learned Standing Counsel for the appellant-Corporation mainly contends that the Tribunal failed to appreciate the plea taken by the Corporation that due to negligence of the injured-

claimant the accident was occurred and the driver of the bus was not negligent in driving the bus and causing accident. He further submits that the compensation granted by the Tribunal is also on higher side.

8. As seen from the impugned award, the appellant-Corporation has not examined either the driver or conductor of the crime bus before the Tribunal in order to prove its contention that there was no negligence on the part of the driver of the RTC Bus in causing the accident and the injured himself was negligent in driving the motor cycle and caused the accident. In the absence of any evidence let in by the Corporation to prove its case, this Court is not inclined to accept the contention of the appellant in this regard.

9. As regards quantum of compensation, in order to prove the treatment taken and expenditure incurred by him, the injured got himself examined as PW-1, got examined the doctors who treated him as PWs 2 and 3 besides got examining the Billing Manager of the hospital as P.W.4. The Tribunal believing the evidence of PWs 1 to 4 and having considered the fact that the injured sustained grievous injuries i.e. fracture of frontal bone, head injury, facial fracture of Maxillary Mandible loss of teeth; took treatment initially at Government Hospital, Shad Nagar, and later at Yashoda Hospital, Hyderabad, and Smile Dental Hospital, Hyderabad; and underwent surgery and teeth implantation, and considering the medical bills produced before it, awarded a sum of Rs.3,80,000/- towards medical expenditure. That apart, the

Tribunal awarded Rs.10,000/- towards pain and sufferance and Rs.5,000/- towards extra nourishment and transportation and in total awarded Rs.3,95,000/-. Having perused the entire evidence on record, this Court is of the opinion that the Tribunal granted just and fair compensation in proportionate to the injuries sustained by the injured and based on the evidence adduced by the doctors-PWs 2 and 3 and the Billing Manager of the Hospital-P.W.4 and in the absence of any contrary evidence, the same warrants no interference of this Court.

10. Therefore, the appeal is dismissed. The appellant-Corporation shall deposit the remaining compensation amount to the credit of the O.P. before the Tribunal along with costs and interest, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondent-claimant is permitted to withdraw the same.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. No order as to costs.

T. AMARNATH GOUD, J

16.08.2019
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