

HON'BLE SRI JUSTICE T. AMARNATH GOUD

M.A.C.M.A.No.786 of 2011

JUDGMENT:

Aggrieved by the judgment and decree dt.26.11.2010 in O.P.No.980 of 2007 passed by the Chairman, Motor Accident Claims Tribunal-cum-IV Additional District Judge, Ranga Reddy District (for brevity "the Tribunal"), in fastening liability of an amount of Rs.2,68,725/- towards 75% of contributory negligence on the part of the driver of the RTC Bus, out of the total compensation of Rs.3,58,300/- as against the claim of Rs.3,00,000/- made by the petitioner with interest @ 7.5% per annum for the injuries sustained by respondent-petitioner in a motor vehicle accident that occurred on 18.10.2002, when the petitioner was proceeding on a Hero Puch Motor Cycle bearing No.AP 28 3098 as a pillion rider from Boinagiri side to Hyderabad, and when it reached Pagidipally Village outskirts, Kaleswaram, as the petitioner is riding the bike with three persons and could not control the bike due to conjunction, the present civil miscellaneous appeal has been preferred by the Corporation.

The appellant herein is the State Road Transport Corporation and respondent is the petitioner. The facts leading to the accident are not in dispute.

The Tribunal, after appreciating the evidence on record, both oral and documentary, apart from awarding a sum of Rs.5,000/- towards transportation, Rs.7,300/- towards medical expenses, Rs.30,000/- towards pain and suffering, and Rs.10,000/- towards extra-nourishment and medicines, a sum of Rs.3,06,000/- has been awarded towards 50% of permanent disability suffered by the petitioner. Thus, a total sum of Rs.3,58,300/- has been awarded by the Tribunal towards compensation to the petitioner vide judgment and decree dt.26.11.2010 in O.P.No.980 of 2007. Since the petitioner was riding with three persons on his bike and met with an accident with the appellant – RTC Bus, the contributory negligence was apportioned @ 25% on the petitioner and 75% on the driver of the RTC Bus. Accordingly, an amount of Rs.2,68,725/- towards 75% of contributory negligence has been apportioned against the appellant – Corporation with interest @ 7.5% per annum from the date of petition i.e. 28.08.2007 to till realization. Aggrieved by the same, the present Civil Miscellaneous Appeal has been preferred by the appellant – Corporation.

Heard Sri M. Prashanth, counsel representing Sri K. Madhava Reddy, learned Standing Counsel for the appellant – Corporation and Sri V. Atchutaram, learned counsel for the respondent – petitioner.

Learned Standing Counsel for the appellant – Corporation contends that though the Tribunal came to the conclusion that the respondent – petitioner sustained 50% permanent disability, the respondent – petitioner has not examined any Doctor, who treated him and who has issued Ex.A.7 – Copy of Disability Certificate, nor produced any medical evidence in support of his contention. On 19.10.2002 immediately after the accident, after getting treatment in Government Hospital, Bhongir, the petitioner was shifted to Gandhi Hospital, where he underwent plastic surgery on 28.10.2002 and a rod was fixed and he was discharged on 08.11.2002. Thereafter, the petitioner was admitted in Nizam's Institute of Medical Sciences, Panjagutta, Hyderabad, where implants were removed and he was discharged on 10.02.2003. Though the petitioner underwent treatment in Government Hospitals, there is no piece of evidence to prove that the petitioner sustained 50% permanent disability and he could not attend any works in future. Therefore, the contention of the appellant – Corporation is allowed by rejecting the claim of the petitioner that the petitioner sustained 50% permanent disability, as awarded by the Tribunal. Therefore, the amount awarded by the Tribunal is reduced from 3,58,300/- to 52,300/- (which includes Rs.5,000/- towards transportation, Rs.7,300/- towards medical expenses, Rs.30,000/- towards pain and suffering,

and Rs.10,000/- towards extra-nourishment and medicines). After apportioning the said amount of Rs.52,300/- towards contributory negligence between the appellant – Corporation and the respondent - petitioner @ 75% and 25%, respectively, as held by the Tribunal, the amount payable by the appellant – Corporation to the respondent – petitioner comes to Rs.39,225/-, which is rounded off to Rs.39,200/-.

It is represented by Sri M. Prashanth, learned counsel representing Sri K. Madhava Reddy, learned Standing Counsel for the appellant – Corporation that pursuant to the interim order dt.19.04.2011 passed by this Court, the appellant – Corporation has deposited 50% of the decretal amount and the same has been withdrawn by the respondent – petitioner, which is more than the amount of Rs.39,200/- (Rupees thirty nine thousand two hundred only) payable by the appellant – Corporation.

It is needless to observe that the appellant – Corporation is at liberty to take appropriate steps for recovery of the excess amount paid by the Corporation from the respondent – petitioner in accordance with law.

With the above observations, this Civil Miscellaneous Appeal is allowed. No order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

T. AMARNATH GOUD, J

30.12.2019.
Msr



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