

THE HON'BLE SRI JUSTICE PULLA KARTHIK

M.A.C.MA. No.100 of 2019

JUDGMENT:

This Appeal is filed by the claimant, aggrieved by the Order and Decree in MVOP 1081/2007 dated 04.09.2017 on the file of Motor Accidents Claims Tribunal-cum- VIII Additional District Judge, Nizamabad, wherein the Tribunal awarded a compensation of Rs.1,35,000/- as against the claim of Rs.2,00,000/- for the injuries sustained by the appellant in a motor vehicle accident that occurred on 25.10.2004.

2. The case of the appellant is as follows:

On 25.10.2004, while the appellant was going by walk and when she reached near bridge at Kasabgally, on the main road at about 10 AM, meanwhile the driver of the bus bearing No. AP-16-U-1717, drove it in a rash and negligent manner at high speed came and dashed the appellant, due to which, the appellant sustained fracture of pelvis, waist, thighs, left knee, ribs and grievous injuries on

right inyevinal area and head, injury over left side of the chest, perineum, and other injuries all over her body. Immediately she was shifted to Government Hospital, Hyderabad where she was treated as inpatient and referred to Gandhi Hospital, Hyderabad for specialised and expert treatment where she was treated as inpatient from 25.10.2004 to 4.11.2004 and underwent major operation on 26.10.2004.

3. It is pleaded that after discharge she was continuing follow up treatment and have incurred Rs.1,50,000/- towards nursing and nourishing. Prior to the accident the appellant was hale and healthy and was aged about 13 years student. It is further pleaded that due to the injuries and fractures sustained in the accident, she sustained permanent disability and lost her future earnings and amenities of life.

4. The respondent No.1 was set exparte before the Tribunal.

5. The Respondent No.2/Insurance Company filed its counter denying the petition averments and pleaded that as per FIR and complaint, that the appellant sustained simple injuries only and the question of permanent disability does not arise. It is further pleaded that the driver of the bus was not having valid and effective driving license to drive the vehicle as on the date of the accident and prayed to dismiss the petition.

6. Basing on the above pleadings, the Tribunal had framed the following issues for Trial:

1. Whether the accident has taken place due to rash and negligent driving of the vehicle No.AP-16-U-1717 by its driver?

2. Whether the petitioner sustained injuries in motor vehicle accident and whether the petitioner is entitled to claim compensation, if so, to what amount and from which of the respondents?

3. To what relief?

7. In support of her claim, the appellant besides examined herself as PW1, also examined PW2 Dr.M.Srinivas Babu, and got marked Exs.A1 to A8. On behalf of the 2nd respondent, no oral evidence was adduced but Ex.B1 was marked with consent.

8. On considering the evidence and material on record, the Tribunal had awarded compensation of Rs.1,35,000/- with interest at 6% per annum from the date of petition and thereafter from 3.8.2016 till the date of payment or realisation after deducting spells of period which OP is not alive on record for the rest she is entitled for cost. The amount is recoverable by the petitioners from respondents No.1 and 2 jointly and separately. The compensation awarded by the Tribunal is shown below in a table:

1.	Compensation under the head of injuries sustained in RTA	Rs.1,00,000
2.	Compensation under the head injury, shock, pain and suffering	Rs.25,000
3.	Compensation under the heads of transport, nourishment	Rs.10,000
	Total	Rs.1,35,000

9. Heard both sides.

10. The appellant contends that the Tribunal erred in awarding a meagre amount of Rs.1,00,000/- for the injuries sustained to the appellant. It is further contended that the Tribunal failed to consider that the appellant had spent more than Rs.1,50,000/- for medical expenses and she underwent major operation on 26.10.2004.

11. The counsel for the respondent No.2 contend that after considering the evidence and material on record, the Tribunal had rightly granted an award of Rs.1,35,000/-. It is further contended that there is no error in the order of the Tribunal and requested to dismiss the appeal.

12. This Court has taken note of the submissions made by the respective parties.

13. As per the evidence of PW2 i.e. Dr.M.Srinivas Babu and as per Ex.A2 the appellant had received 5 injuries, out of which 1, 3, 4 are grievous injuries and there is a pelvic fracture. Though the appellant pleaded that she has spent

Rs.2,00,000/- towards the medical expenditure, no document was filed to prove the expenditure of Rs.2,00,000/-. As per the evidence of PW2, Dr.M.Srinivas Babu a Civil Assistant Surgeon RMO, Gandhi Hospital, she has taken treatment from 25.10.2004 to 4.11.2004 and an operation was done on 26.10.2004 and she was discharged on 4.11.2004 and advised to review in Ortho OP after 3 weeks on 29.11.2004 for the following 5 injuries:

1. Pelvic fracture with haemopneumothorax with perineal laceration with haematuria.
2. Contusion 3" x 2" (cm) over right inguinal area.
3. Abrasion 2"x1" (cm) over left knee.
4. Contusion 3"x2" (cm) over left side of front of the chest.
5. Laceration 2" x ½" x 1/2" over perineum.

14. In view of the above, this Court is of the opinion that though the appellant failed to file any documentary proof towards medical expenditure, this Court opines that certain amounts should have been spent towards

medicines. In view of the above, this Court is of the opinion that it is appropriate to award Rs.25,000/- towards medicines in addition to the compensation amount of Rs.1,35,000/- awarded by the Tribunal, which totally amounts to Rs.1,60,000/- and interest at 6% per annum is enhanced to 7.5% per annum.

15. With the above modification, the Motor Accidents Civil Miscellaneous Appeal is disposed of. There is no order as to costs.

Pending miscellaneous petitions, if any, in this MACMA shall stand closed.

JUSTICE PULLA KARTHIK

Date: 13.09.2022

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