

THE HONOURABLE SRI JUSTICE PULLA KARTHIK**M.A.C.M.A.NO.407 OF 2019****JUDGMENT:**

This Motor Accidents Civil Miscellaneous Appeal is filed by the TSRTC Corporation challenging the Judgment and Decree passed in MVOP.No.272 of 2016 dated 10.09.2018 on the file of the Motor Accidents Claims Tribunal (I Additional District Judge, at Khammam (for short “the Tribunal”), wherein, the learned Tribunal had awarded an amount of Rs.4,79,842/- as compensation for the injuries sustained by him in a motor vehicle accident that occurred on 17.07.2015.

2. The case of the claim petitioner in brief:

On 17.07.2015 at about 11-00 a.m., while the claim petitioner was proceeding from District Court, Khammam to RDO Court, Khammam on his motor cycle bearing No.AP 20 S 9948, when he reached near Bajaj Show Room at Z.P.Centre, Khammam, the driver of the RTC Bus bearing No.TS 04 Z 0150 of Sathupally Depot, drove it in a rash and negligent manner and dashed against the Motor cycle of the respondent/petitioner from rear side. As a result of which, the respondent fell down and received injuries to his left leg and left elbow. Due to the said accident, the respondent sustained the following injuries:-

1. Open type III b fracture of left humerus.
2. Left tibial fracture and multiple injuries all over the body.
3. Immediately, the respondent was shifted to Surya Orthopedic Centre, Khammam thereafter, he was shifted to Apollo Hospital, Hyderabad, for better treatment, wherein he was treated as inpatient for 15 days. It is pleaded that during the said period, two surgeries were conducted and steel rods were inserted in his left leg and left elbow. Thereafter, the respondent was advised to take bed rest for 50 days and also to visit the Hospital every week for one month and every fortnight for two months. It is further pleaded that the respondent/petitioner had spent more than Rs.3,00,000/- towards his treatment, medical expenses, transportation and other charges.
4. The Appellant had filed its counter before the Tribunal denying the mode of accident, injuries sustained by the claim petitioner, expenditure incurred by the petitioner and involvement of the crime vehicle and further denied that there is no rash and negligent driving on the part of the driver of crime vehicle and also that the amount of compensation is excessive and prayed to dismiss the petition.
5. Basing on the above pleadings, the following issues were framed by the Learned Tribunal for trial:

(1) Whether the accident took place due to rash and negligent driving of the driver of the crime vehicle i.e., RTC Bus bearing No.TS 04 Z 0150, Sathupalli Depot occurred on 17.07.2015, at about 11-00 hours?

(2) Whether the respondent/petitioner is entitled to any compensation? If so, to what amount and from whom?

(3) To what relief?

6. On behalf of the claim petitioner, PWs 1 and 2 were examined and Ex.A1 to Ex.A9 were marked. On behalf of the appellant/respondent, RW1 was examined, but no documents were marked.

7. On considering the material on record the Tribunal had passed an award of Rs.4,79,842/- with future interest @7.5% p.a. awarded as under:

01.	Medical expenditure	Rs.2,89,842=00
02.	Pain and suffering	Rs.50,000=00
03.	Loss of income	Rs.1,00,000=00
04.	Removal of future implants	Rs.40,000=00
Total:		Rs.4,79,842=00

8. Heard both sides and perused the record.

9. The learned counsel for the appellant contends that an amount of Rs. 4,79,842/- as compensation for the injuries sustained by the claim petitioner is excessive. It is further contended that the learned Tribunal ought to have taken into consideration the aspect of sole negligence on the part of the claim petitioner and the injuries sustained by him, as the said accident had taken place due to rash and negligent driving of the motor cycle. But the Tribunal had erroneously attributed negligence completely to the driver of the bus without any cogent evidence.

10. The appellant further contended that the Tribunal erred in considering the earnings of claim petitioner at Rs.20,000/- per month without any documentary evidence and erroneously awarded an excessive amount of Rs.1,00,000/- towards loss of income. It is further contended that the Tribunal erroneously awarded compensation of Rs.50,000/- towards pain and suffering and awarded excess amount towards compensation.

11. In contra, the respondent contends that the learned Tribunal had rightly passed an award of Rs.4,79,842/- based on the evidence and material available on record. He further contended that there is no error in the order of the Tribunal and prayed to dismiss the appeal.

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

13. As per the evidence of PW1 and Ex.A1 and Ex.A2, i.e. FIR and Charge sheet the Tribunal had justified in holding that the accident was occurred due to the rash and negligent driving of the driver of the bus. Further with regard to loss of income is concerned, though the claim petitioner claimed Rs.6,00,000/- per annum as a Legal Practitioner as well as agriculturist, but he did not file any documents to show that he himself was cultivating the lands and also the claim petitioner pleaded that he is a Legal Practitioner but failed to submit any document (Income Tax returns) to show his income.

14. The Tribunal on considering the fact that the claim petitioner is a legal Practitioner dealing with Civil and Criminal cases at District Court, Khammam, had justified in fixing the income of the petitioner at Rs.20,000/- per month. This court holds that the Tribunal had justified in awarding Rs.1,00,000/- towards loss of income for 5 months of bed rest period on the basis of the evidence of PW1 and PW2.

15. This court further holds that the Tribunal had justified in awarding compensation of Rs.2,89,842/- towards medical bills on the basis of Ex.A6 and Ex.A9. As per the oral testimony of PW2 i.e. doctor who treated him in hospital and considering the necessity of removal

of implants, the Tribunal had justified in fixing an amount of Rs. 40,000/- as expenditure for future implants. As per Ex.A3 medical certificate, the petitioner sustained fracture of left humerus and left tibial fracture. As per the evidence of PW2, the petitioner was treated as inpatient at Apollo Hospital for 7 days and was operated on 18.7.2005 with LCP plate fixation for left proximal tibia and debridement was done and KY fixation done for fracture of left humerus. In view of the above, this court holds that the Tribunal had justified in awarding Rs.50,000/- towards pain and suffering, in all in awarding compensation of Rs.4,79,842/-.

16. In view of the above, this Court does not see any error in the order of the Tribunal. Hence, the appeal is liable to be dismissed.

17. Accordingly the appeal is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SRI JUSTICE PULLA KARTHIK

Date:15.09.2022.

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THE HON'BLE SRI JUSTICE PULLA KARTHIK

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