

THE HON'BLE SRI JUSTICE PULLA KARTHIK

M.A.C.MA. No.503 of 2019

JUDGMENT:

This Motor Accidents Civil Miscellaneous Appeal is filed by the TSRTC, challenging the Order and Decree dated 23.10.2018 passed in MVOP No.498 of 2013 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Khammam, (for short “the Tribunal”), wherein the learned Tribunal had awarded a compensation of Rs.4,98,502/- as against the claim of Rs.5,00,000/- for the injuries sustained by the petitioner in a motor vehicle accident that occurred on 08.02.2008.

2. The case of the respondent/petitioner is as follows:

On 08.02.2008 the claim petitioner started on his TVS victor bearing No. AP 20 L 8168 towards Khammam for purchasing kirana provisions and when he reached near Ramalayam centre at about 7.20 hours, at that time driver of RTC bus bearing No. AP10Z 8910 namely

Desaboina Jagannadham (Staff No. E 33136) drove the same in a rash and negligent manner at high speed and dashed against the claim petitioner in opposite direction. As a result of which the respondent/petitioner fell down from the motor cycle and sustained grievous injuries all over the body.

3. It is further pleaded that after the accident, he was shifted to Siva Orthopaedic hospital, Khammam in 108 ambulance where he was given first aid and as his condition was serious, he was referred to Kamineni Hospital, Hyderabad and he took treatment as inpatient from 08.02.2008 to 14.02.2008. It is further pleaded that during the course of treatment, surgery was performed over right leg and inserted steel rods and nail plates. Later, he has been undergoing treatment in Surya Orthopaedic Hospital, Khammam as an out-patient. It is pleaded that the respondent/petitioner had spent an amount of Rs.2,75,000/- towards medical expenses and he has to spend another amount of Rs.50,000/- towards operation

for removal of implants. It is further pleaded that due to the accident, he became permanently disabled and not in a position to attend his normal duties as he was before the accident and he was forced to engage an attendant by paying Rs.1500/- per month. It is further pleaded that the respondent/petitioner used to run Kirana business and earn Rs.10,000/- per month. Because of the resultant injuries in the accident, the claim petitioner not only suffered loss of earnings during the course of treatment but also suffered loss of future earnings apart from experiencing untold mental agony and physical discomfort. Considering the nature of injuries, treatment and other resultant -affect causing loss to his future earning capacity, the claim petitioner claimed lumpsum amount of Rs.5,00,000/- towards general and special damages.

4. On behalf of the respondent/claimant petitioner, PW1 and 2 were examined and Ex.A1 to A10 were marked. On behalf of the appellant, RW1 was examined and no documents were marked.

5. On considering the evidence and material on record, the Tribunal had awarded an amount of Rs.4,98,502/- with future interest at 7.5 % per annum from the date of petition till the date of realisation as under:

Sl. No.	Nature of Head	Amount
1.	Pain and suffering	Rs.20,000
2.	Medical expenses	Rs.2,17,002
3.	Loss of earnings during the course of treatment	Rs.40,500
4.	Attendant charges	Rs.5,000
5.	Loss of future earnings on Account of permanent disability (4500x12x25/100x16)	Rs.2,16,000
	Total	Rs.4,98,502/-

6. Heard both sides

7. The appellant contends that Tribunal erred in not taking into consideration the aspect of sole negligence on the part of the respondent/petitioner and the Tribunal erroneously attributed the negligence completely to that of

the driver of the bus bearing No. AP10Z 1980 without any cogent and reliable evidence is unjust and improper.

8. It is further contended that the Tribunal erred in considering the earnings of the respondent/petitioner at Rs.4,500/- per month without any documentary evidence. It is further contended that the Tribunal erroneously awarded the excessive amount of Rs.2,17,002/- towards medical expenses without examining the person who issued medical bills i.e. Ex.A7 and A8. It is further contended that as per the evidence of PW2, i.e. Doctor, no disability sustained by the respondent/claim petitioner ignoring this fact, the Tribunal erroneously awarded Rs.2,16,000/- towards loss of future earnings without any cogent evidence.

9. The counsel for respondent contends that the Tribunal after considering the evidence and material on record had rightly passed an award of Rs.4,98,502/- and further contends that there is no error in the order and requested to dismiss the appeal.

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

11. As per Ex.A2 and as per the evidence of PW1 and RW1, it is proved that the accident was occurred due to rash and negligent driving of the driver of the crime vehicle i.e. appellant herein.

12. PW 1 deposed that he was carrying business and was earning Rs.10,000/- per month, as no document was filed in support of his claim, the Tribunal on considering the minimum wages applicable to that year during the relevant period and also the age of the petitioner, an amount of Rs.150/- per day is fixed i.e. Rs.4,500/- per month. Hence, in the light of the Apex Court Judgment in Ramchandrappa's case, the Tribunal had justified in fixing the income of the claimant @ Rs.4,500/- per month.

13. Though the respondent/petitioner claimed Rs.2,75,000/- towards medical and other expenses and subsequently a surgery was conducted in removal of

implants, for which he spent more than Rs.50,000/- and deposed that he is still taking treatment, the Tribunal on the basis of Ex.A7 i.e. the medical bills amounting to Rs.1,88,217/- and Ex.A8 i.e. the bunch of travelling bills amounting to Rs.28,785/-, which pertain to the period of treatment of the petitioner had rightly awarded an amount of Rs.2,17,002/- towards medical expenses.

14. As per the evidence of PW2/doctor, no deformity or disability was sustained by the claimant. As per Ex.A3 i.e. certified copy of medical certificate, issued by medical board, Khammam the claimant had sustained 58% of disability. The Tribunal had justified in taking the functional disability at 25% on the basis of PW2 evidence and Ex.A10 i.e. disability certificate issued by medical board, Khammam.

15. In view of the above, this court does not see any error in the order of the Tribunal and appeal is liable to be dismissed.

16. Accordingly the appeal is dismissed as devoid of merits. There is no order as to costs.

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

JUSTICE PULLA KARTHIK

Date: 16.09.2022.

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