

THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

MA.CMA.NO.2092 OF 2014

JUDGMENT

The present appeal is filed by the claimant, who is injured, against the order and decree dated 29.10.2012 passed by the court of the Motor Accidents Claims Tribunal – cum – Additional District Judge (F.T.C.), Mahabubnagar at Gadwal, seeking enhancement of compensation granted by the Tribunal.

2. The case of the claimant is that on 1.9.2004 when he and others were proceeding in a jeep bearing No. AP 22 U – 8270 from Marikal towards Atmakur, and that when the jeep was proceeding near Electrical Sub Station, Marikal, the driver of the APSRTC hire bus bearing No. AP 22 U 1965 drove the same in a rash and negligent manner and dashed the jeep, as a result, the claimant and other inmates of the jeep sustained injuries. The Police of Marikal Police Station registered a case against the driver of the bus under Sections 337 and 304 IPC and took up the investigation.

3. The case of the claimant is that he was earning an amount of Rs.60,000/- per annum by doing agriculture and due to injuries sustained in the accident, he became permanently disabled. His case is that he sustained fracture of right frontal region, left wrist, distal fore arm, closed head injury, laceration of right eye brow, right ankle and jaw. After the accident, he was shifted to Government Hospital, Mahabubnagar, and from there, he was shifted to Apollo Hospital, Hyderabad, and from there to SVS Hospital, Mahabubnagar and he incurred huge amounts.

4. With these averments, the claim petition is filed under Section 166 of the Motor Vehicles Act, 1966 claiming an amount of Rs.1,50,000/-.

5. The owner of the bus remained ex parte and the APSRTC, which hired the bus and the insurer of the bus filed their respective counter affidavits, denying the averments made in the claim petition and sought for dismissal of the same.

6. The Tribunal considering the evidence of P.W.1, who is the injured and eyewitness to the accident, coupled with Exs.A-1 and A-3, which are FIR and charge sheet, held that the accident occurred due to rash and negligent driving of the driver of the bus, and that the claimant sustained injuries in the said accident.

7. The Tribunal granted the compensation as under:

a) Towards pain and suffering	-- Rs.25,000 – 00
b) Medicines, treatment expenditure	-- Rs. 25,000 – 00
c) Loss of income during treatment period	-- Rs. 6,000 – 00
d) Transport, attendant and extra nourishment charges:	-- Rs. 10,000 – 00

Total:--	Rs.66,000 – 00

8. Heard the learned counsel for the appellant/claimant and Smt. Satya Manjula, learned counsel for the 3rd respondent – Insurance Company.

9. In the present case, there is no dispute with regard to the finding of the Tribunal that the accident occurred due to rash and negligent driving of the driver of the crime vehicle and the claimant sustained injuries in the said accident, and the only dispute is with regard to quantum.

10. The case of the claimant is that due to the accident, he sustained fracture of right frontal region, left wrist, distal fore arm, closed head injury, laceration on right eye brow, right ankle and jaw. He examined himself as P.W.1 and deposed with

regard to the said injuries and produced Ex.A-2, which is the wound certificate issued by Civil Assistant Surgeon, Government Head Quarters Hospital Mahabubnagar. As per Ex.A-2 he sustained (1) laceration below right eye, (2) laceration right side of jaw, (3) laceration on right temporal region and fracture of temporal bone, (4) communicated fracture of lower end of radius, and (5) closed head injury traumatic. As per Ex.A-2, injury Nos.3, 4 and 5 are grievous injuries and injury Nos.1 and 2 are simple in nature. The case of the claimant is that he took treatment at Apollo Hospital, Hyderabad, SVS Hospital Mahabubnagar and the that he incurred an amount of Rs.93,000/- for treatment and he filed Exs.A-5 to 7.

11. Here it is to be noticed that Ex.A-2, wound certificate issued by Civil Assistant Surgeon, Government Head Quarters Hospital, Mahabubnagar, is a public document, and moreover the Motor Vehicles Act, 1988 is a beneficial piece of legislation and hence strict rules of evidence cannot be applicable. Further, the insurance company also did not lead any rebuttal evidence. In these facts and circumstances, as found by the Tribunal, reliance can be placed on Ex.A-2 even in the absence of the examination of the doctor who issued Ex.A-2.

12. A perusal of the impugned order discloses that the Tribunal has not awarded any amount for injuries. Hence, having regard to the facts and circumstances of the case, and the nature of injuries, I am inclined to award an amount of Rs.25,000/- each for the three grievous injuries i.e., Rs.75,000/- and Rs.5,000/- each to the two simple injuries i.e., Rs.10,000/-. The amounts granted by the Tribunal under other heads, having regard to the facts and circumstances of the case, needs no interference.

13. Thus, the compensation granted by the Tribunal is enhanced from Rs.66,000/- to Rs.1,51,000/- with interest at the rate of 7.5 per cent per annum from the date of claim petition till the date of realization. The respondents 1 to 3 are jointly and severally liable to pay the amount.

14. The compensation amount shall be deposited within a period of two months from the date of receipt of a copy of this order and on such deposit, the claimant is entitled to withdraw the same. Any amount already deposited by the respondents, shall be given credit to.

15. The appeal is accordingly allowed to the extent indicated above.

16. Interlocutory Applications pending, if any, shall stand closed. No order as to costs.

DATE:19—09—2022
avs

M.G.PRIYADARSINI,J