

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No. 1875 of 2014

JUDGMENT:

Being dissatisfied with the order and decree passed by the Principal District, R.R.District at L.B.Nagar, Hyderabad, in O.P.No. 1402 of 2010 dated 04.10.2013, Andhra Pradesh State Road Transport Corporation has filed the present appeal.

2. For the sake of convenience, the parties have been referred to as arrayed before the Tribunal.

3. Brief facts of the petitioner's case are that on 19.02.2010 at about 4-00 p.m. the petitioner along with his sister was proceeding on his Hero Honda motorcycle bearing no. TR 3773 from Gokaram village to Gangem and when he reached near Varkatpally Village, Mutyalamma Temple, RTC bus bearing No. AP 28 Z 1027 came from the opposite direction in a rash and negligent manner on the wrong side and dashed his motorcycle, due to which, both of them fell down and the petitioner sustained multiple fractures and grievous injuries. Immediately he was shifted to Government

Hospital, Bhongir and from there shifted to private hospitals and finally shifted to NIMS, Hyderabad, where he was admitted as inpatient and his right leg was amputated below the knee. Thus, the petitioner claimed compensation of Rs.10,00,000/- under various heads.

4. Respondent-Corporation filed counter disputing the manner of accident, nature of injuries sustained by the petitioner and the treatment taken by him. It is further contended that the compensation claimed by the petitioner is highly excessive and prays to dismiss the petition.

5. Based on the above pleadings, the Tribunal framed the following issues:

1. *Whether the pleaded accident occurred resulting in the injuries to the petitioner and if so, was it due to the fault of the driver of the APSRTC Bus bearing No. AP 28 Z 1027 or the petitioner and if both are responsible, what is the responsibility of each?*
2. *Whether the petitioner is entitled to compensation and if so, to what amount and what is the liability of respondent?*
3. *To what relief?*

6. In order to prove the issues, PWs.1 to 3 were examined and Exs.A1 to A14 got marked on behalf of the petitioner. On behalf of respondent-Corporation no witnesses were examined and no document was marked.

7. Considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.8,00,000/- towards compensation to the claimant along with proportionate costs and interest @ 7.5% per annum from the date of petition till the date of deposit against the respondent-Corporation.

8. Heard the learned Standing Counsel for the appellant-Corporation and the learned Counsel for the respondent-claimant. Perused the material available on record.

9. The learned Standing Counsel for the appellant-Corporation contended that the Tribunal grossly erred in not taking the contributory negligence on the part of the respondent in riding his motorcycle and the Tribunal erred in granting the compensation of Rs.8,00,000/- under various heads Accordingly, prayed for setting aside the impugned order in the O.P.

10. The learned Counsel appearing on behalf of respondent-claimant submitted that the Tribunal after considering the oral and documentary evidence available on record, has awarded adequate compensation and the same needs no interference by this Court. Therefore, the learned counsel sought for dismissal of the appeal.

11. With regard to the manner of accident, though the learned Standing Counsel submitted that there is contributory negligence between two vehicles, the Tribunal after evaluating the evidence of PW-1 coupled with the documentary evidence available on record, rightly held that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle.

12. With regard to the quantum of compensation is concerned, according to PW.2, who is Orthopedic Surgeon at NIMS, the petitioner was admitted in NIMS on 20-01-2010 with alleged history of road traffic accident took place on 19.01.2010 and the petitioner/PW-1 sustained closed fracture shaft of right femur and Grade.III(C) compound fracture of both bones of right leg (vascular injuries present), which are

grievous in nature and the patient was operated on 21-1-2010 and 25-1-2010 for the fracture and an attempt was made to salvage the leg, but however, the limb salvage could not be done because of the vascular injury and hence, the leg was amputated below the knee. For the second injury, PW-1 was operated upon on 11-3-2010 and was discharged on 17.3.2010. PW-2 further deposed that on 03-12-2010 he examined PW-1 and issued Ex.A12 disability certificate certifying that he sustained 50% permanent and partial disability to his right lower limb. Further PW-3 who is Billing in-charge at NIMS, deposed that Ex.A7 final bill issued by NIMS for Rs.97,075/- was issued by NIMS. Before joining in NIMS, PW-1 took treatment in different hospitals and filed the medical bills under Exs.A8 to A10. Therefore, considering the evidence of PWs.1 to 3 coupled with documentary evidence available on record, the Tribunal awarded an amount of Rs.2,00,000/- towards medical bills, Rs.25,000/- towards pain and sufferance, Rs.25,000/- towards future medical expenses and Rs.10,000/- towards transportation charges. Further with regard to the disability sustained by the petitioner due to amputation of his right leg below the knee,

the Tribunal by taking his income at Rs.5,000/- per month, awarded an amount of Rs.5,40,000/- towards loss of earnings. In total, the Tribunal awarded an amount of Rs.8,00,000/- under various heads, which is just and reasonable. Therefore, in view of the above discussion, this Court is of the opinion that there are no valid grounds to interfere with the cogent findings given by the Tribunal and the appeal is liable to be dismissed.

13. In the result, the M.A.C.M.A. is dismissed. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

M.G.PRIYADARSINI,J

23.11.2022
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