

THE HON'BLE JUSTICE M.G. PRIYADARSINI

M.A.C.M.A. No. 2376 of 2014

JUDGMENT:

Being not satisfied with order and decree passed by the Chairman, Motor Accident Claims Tribunal-cum-District Judge, Mahabubnagar (for short, the Tribunal) in O.P.No.444 of 2012, dated 25.03.2013, the appellant/respondent-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 04.04.2012 the petitioner boarded the APSRTC bus bearing No. AP-22-Z-0056 at Hyderabad to go to Narayanpet, and in the evening at about 5.30 PM when the bus reached near Zilla Parishad High School, Bandarpally, the driver of the offending bus drove it in a rash and negligent manner with high speed and applied sudden brakes and dashed to a pedestrian Bandarpally Ramulu, due to the said impact, the petitioner and other passengers sustained severe injuries. The accident had occurred due to rash and negligent driving of the offending RTC bus by its driver. It is further stated that the petitioner was aged about 30 years and was doing coolie work and earning Rs.4,500/- per month. Thus, the claimant filed a

petition under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.3,00,000/- for the injuries sustained by her in motor accident.

4. Respondent is the Andhra Pradesh State Road Transport Corporation.

5. The respondent filed counter inter alia denying the petition averments and stated that the petition is not maintainable either in law or on facts and same are liable to be dismissed. The respondent denied the manner of accident that had happened, avocation and earnings of the petitioner and also the amount spent towards medical expenditure. It is contended that by colluding with the doctor, the petitioner got medical certificates stating that she sustained grievous injuries only to claim excess amount. It is also contended that the compensation claimed is excessive and prayed to dismiss the claim-petition.

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

1. Whether the accident had occurred on account of rash and negligent driving of the offending RTC bus bearing No.AP-22/Z-0056 by its driver?

2. Whether the compensation claimed by the petitioner is proper and just?

3. Whether the petitioner is entitled to compensation, if so to what extent.

7. In order to prove the issues, PWs.1 and 5 were examined and Exs.A1 to A4 got marked on behalf of the petitioner. On the other hand, the respondent has not examined any witness to rebut the evidence of the petitioners.

8. After considering the claim, counter and the evidence, both oral and documentary brought on record, the tribunal has allowed the O.P. in part awarding a sum of Rs.2,42,000/- with interest @ 6% per annum from the date of petition till the date of realization payable by the respondent.

9. Heard the learned Standing Counsel for the Andhra Pradesh State Road Transport Corporation. Perused the material available on record.

10. The learned Standing Counsel for APSRTC contended that the decree of the tribunal is contrary to facts of the case and evidence on record; that there was no negligence on part of the driver of the offending vehicle and the tribunal has erred

in awarding the compensation of Rs.2,42,000/- holding the disability of the claimant at 35% and applying the multiplier '16' stating that she is aged between 31 and 35 years, which is erroneous and exorbitant. Accordingly, prayed for setting aside the impugned order in the O.P.

11. With regard to the manner of accident, though the learned Standing counsel for the APSRTC pleaded that there was no negligence on the part of the driver of the offending vehicle, as there is no oral or documentary evidence was produced by the APSRTC to prove the negligence on the part of the claimant, considering the evidence of PW-1 coupled with the documentary evidence produced by him, the Tribunal rightly held that the accident occurred due to the rash and negligence on the part of the driver of the RTC bus.

12. With regard to the quantum of compensation the learned counsel for APSRTC argued that the compensation awarded is excessive and exorbitant. According to the petitioner, she sustained cut injuries over left frontal region, one crush injury of left eye due to which she lost vision. Apart from that she also sustained other multiple bleeding injuries. Immediately after the accident, she was shifted to Government Hospital, Kalwakurthy,

where she was treated as inpatient. It is her further evidence that she took extensive treatment and spent Rs.50,000/- towards medicine and treatment. PW.1 got examined the doctor as PW.5.

13. According to P.W.5 Dr.J. Ram Mohan, Head of the Ophthalmology of District Head quarters Hospital, Mahabubnagar, categorically deposed that the petitioner Buddamma was examined by him and he issued Ex.A.4 disability certificate and she sustained 40% disability to her left eye and she has difficulty to read and view the things. During the cross-examination, P.W.5 stated that the except issuing Ex.A.4 disability certificate, he did not give any treatment to the petitioner. Hence, considering the evidence of PW.5, the tribunal has assessed the petitioner's disability at 35% instead of 40% and had taken the annual income of the petitioner at Rs.36,000/- and by applying the appropriate multiplier '16', the loss of income awarded at Rs.2,01,600/- ($36,000 \times 35\% = 2,01,600/-$). Further the petitioner is also awarded an amount of Rs.10,000/- towards medical expenditure and extra nourishment, Rs.10,000/- towards damage to clothing, transportation and attendant charges and Rs.20,000/- towards pain and suffering. Thus, in all the petitioner is awarded an amount of Rs.2,42,000/- towards compensation under all the

heads which is just and reasonable which needs no interference by this Court.

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

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G. PRIYADARSINI

14.12.2022
PSW

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