

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.3175 of 2014

JUDGMENT:

Not being satisfied with the quantum of compensation awarded by The III Additional District & Sessions Judge(FTC) at Nizamabad in O.P. No.805 of 2006, dated 27.10.2006, the present appeal is filed by the claimant seeking enhancement of compensation.

2. According to the petitioner, on 04.07.2005 at about 02.15 p.m. the petitioner was standing on the side of the road near Armour Bus Depot gate. Meanwhile the driver of the RTC bus bearing No.AP-10-Z-8017 drove the bus in rash and negligent manner with high speed and dashed the petitioner. As a result of which the petitioner sustained grievous head injuries, and immediately he was shifted to Government Hospital, Armour and from there to Aparna Hospital, Armour where he underwent operations and incurred Rs.2,00,000/-(Rupees two lakhs only). Thus, he is claiming compensation of Rs.2,50,000/- under various heads.

3. Respondents-Corporation filed counter disputing the manner of accident and the nature of injuries sustained by the petitioner.

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

1. Whether accident took place due to rash and negligent driving of the bus bearing No. AP.10.Z.8017 by its driver only and if so whether the petitioner sustained injuries?

2. Whether the petitioner is entitled for compensation, if so, to what extent?

3. To what relief?

5. In order to prove the issues, PWs.1 to 3 were examined and Exs.A1 to A6 got marked on behalf of the petitioner. No oral or documentary evidence was adduced on behalf of the respondents-Corporation.

6. Considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.40,000/- towards compensation to the appellant-claimant against the respondents-Corporation, along with

proportionate costs and future interest @ 7.5% per annum, as against the claim of Rs.2,50,000/- laid by the appellant-claimant for the injuries sustained by him in a road accident that occurred on 04.07.2005.

7. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the respondents-Andhra Pradesh State Road Transport Corporation. Perused the material available on record.

8. The learned counsel for the appellant-claimant has submitted that although the claimant, by way of evidence of P.Ws.1 to 3 and Exs.A.1 to A.6, established the fact that the petitioner has sustained fracture injuries in the accident, the Tribunal awarded very meager amount of Rs.40,000/- under various heads.

9. The learned Standing Counsel appearing on behalf of respondents-Corporation sought to sustain the impugned award of the Tribunal contending that considering the nature of injuries sustained by the petitioner, the learned

Tribunal has awarded just and reasonable compensation and the same needs no interference by this Court.

10. Admittedly, there is no dispute with regard to the manner of accident and the involvement of the RTC bus. Now the only dispute is for enhancement of compensation amount.

11. A perusal of the evidence available on record discloses that the oral testimony of PW1 is supported by PW2, so the petitioner has proved that he sustained two grievous injuries and PW2 also denied that the petitioner was not admitted in his hospital and he was not treated the petitioner.

12. However, considering the evidence of PWs.1 to 3 coupled with the documentary evidence available on record, the Tribunal has awarded a sum of Rs.30,000/-, towards pain and sufferance, which is very meager. Thus, considering the nature of injuries sustained by the petitioner, an amount of **Rs.50,000/-** is awarded to the petitioner for the injuries received by him. Further an

amount of **Rs.20,000/-** is awarded towards pain and sufferance. Further considering the treatment taken by the injured and the amount spent by him, an amount of **Rs.20,000/-** is awarded towards extra nourishment, to attendant and transport charges. During the treatment period, the petitioner might have lost his earnings for a period of three months. Therefore, an amount of **Rs.20,000/-** is awarded to the petitioner towards loss of earnings for three months @ Rs.5,000/- per month. Thus in all the petitioner is entitled for an amount of **Rs.1,10,000/-**.

12. In the result, the M.A.C.M.A. is allowed in part by enhancing the compensation amount awarded by the Tribunal from Rs.40,000/- to **Rs.1,10,000/-**. The enhanced amount shall carry interest at 7.5% p.a. from the date of this Order till the date of realization, payable by respondent Nos. 1 and 2 jointly and severally. The amount shall be deposited within a period of one month from the date of receipt of a copy of this order. On such deposit of compensation amount by the respondents, the claimant is

at liberty to withdraw the same without furnishing any security. No costs.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.G.PRIYADARSINI

13.10.2022
AQS/PKR