

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No. 1089 of 2014

JUDGMENT:

Being dissatisfied with the order and decree passed by the Chairman, Motor Vehicle Accident Claims Tribunal-cum-II Additional District Judge, (Fast Track Court.I), Khammam, in M.V.O.P.No. 349 of 2009 dated 06.01.2011, 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 21-08-2008 the petitioner was going to Pallipadu Village on his motorcycle bearing No. AP 20 J 5095 and when he reached near Police Quarters, Konijerla, RTC bus bearing No. AP 11 Z 4749 being driven by its driver came in a rash and negligent manner and dashed the petitioner from his backside, due to which, he fell on the road and sustained fracture injury on left elbow and on left eyebrow and other parts of the body. Immediately he was shifted to New Life Hospital, Khammam

and from there he was shifted to Mamatha General Hospital, Khamma, where he underwent operation on his left humerus bone and rods were inserted and he spent more than Rs.35,000/- towards medical expenses. According to the petitioner, he was an Attender in Andhra Bank, Srinagar colony, Khammam and used to earn Rs.13,200/- per month. Thus, the petitioner claimed compensation of Rs.1,00,000/- 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 accident took place on account of rash and negligent driving of the crime vehicle motorcycle bearing No. AP 20 J 5095 by its driver?*
2. *Whether the petitioner is entitled to claim any compensation, if so, to what amount and from whom?*
3. *To what relief?*

6. In order to prove the issues, PWs.1 and 2 were examined and Exs.A1 to A9 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.67,000/- towards compensation to the claimant along with costs and interest @ 7.5% per annum from the date of petition till realization 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 holding that the accident took place due to rash and negligent driving of the bus and fastening liability on the appellant-Corporation and the Tribunal erred in granting the compensation of Rs.67,000/- 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, 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 the petitioner, he received fracture injury on left elbow, injury on cubital region and left eyebrow. Further PW-2 who treated the petitioner/PW-1 at Mamatha General Hospital, Khammam deposed that the petitioner sustained compound supra condylar fracture of left

humorous, extensive type with median and radian nerve injury and lacerated wound over the left cubital fossa region and that he conducted operation to PW-1 and internal fixation with K-wires on 22.8.2008 and was discharged on 18-9-2008 and that PW-1 spent Rs.35,000/- for medical and other expenses. However, the petitioner filed Ex.A7 medical bills for Rs.17,093/-. Therefore, considering the evidence of PWs.1 and 2 coupled with documentary evidence available on record, the Tribunal awarded an amount of Rs.22,000/- for the injuries sustained by the petitioner, Rs.17,093/- towards medical expenses and Rs.972/- towards attendant charges. Further considering the avocation of the petitioner as Attendar in Andhra Bank and getting Rs.13,200/- per month and the leave granted to him, an amount of Rs.26,935/- is granted towards loss of earnings. In total, the Tribunal awarded an amount of Rs.67,000/- 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
pgp