

HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

M.A.C.M.A. No.2446 of 2015

JUDGMENT:

Dissatisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Courts, Hyderabad in M.V.O.P. No.1762 of 2012, dated 10.07.2015, the present appeal is filed by the claimant.

2. According to the petitioner, on 13.6.2012 at about 6-30 p.m., the petitioner along with her husband was proceeding by the side of the road by walk in front of Alfa Hotel, Secunderabad, in the mean time, RTC bus bearing No. AP.10.Z.4709 being driven by its driver came in rash and negligent manner and dashed the petitioner, due to which, she received grievous injuries and immediately she was admitted in Yashoda Hospital, Secunderabad.

3. Respondents filed counter denying the averments made in the petition.

4. IN view of the above pleadings, the Tribunal framed the following issues:

- 1) Whether the pleaded accident had occurred resulting in injuries to the petitioner, T.Vijaya Laxmi, due to the rash

and negligent driving of the motor vehicle (APSRTC Bus bearing registration No. AP.10.Z.4709), by its driver?

2) Whether the petitioner is entitled to any compensation, and if so, at what quantum and what is the liability of the respondents?

3) To what relief?

5. In order to prove the issues, on behalf of the petitioners, PWs.1 to 4 were examined and got marked Exs.A1 to A14. On behalf of the respondents-Corporation, no oral or documentary evidence was produced.

6. On considering the oral and documentary evidence available on record, the Tribunal has awarded an amount of Rs.1,30,751/- towards compensation along with interest at 7.5% per annum from the date of petition till the date of deposit to the appellant-claimant against the respondents-Corporation.

7. Heard the learned counsel for the appellant-claimant and the Standing Counsel for respondent Nos.1 and 2. 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 4, and Exs.A.1 to A.14, established the fact that the petitioner has sustained permanent disability due to the injuries received by her in the accident, the Tribunal has awarded very meager amount of Rs.1,30,751/- under various heads.

9. The learned Standing Counsel appearing on behalf of respondent Nos.1 and 2 sought to sustain the impugned award of the Tribunal contending that considering the nature of injuries sustained by the petitioner and the treatment taken by her, 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 APSRTC bus bearing No.AP.10.Z.4709. As per the evidence available on record, the petitioner who was examined as PW-1 deposed that she received fracture of right bimalleolar and dislocation degloving injury over posterior aspect of thigh and leg and DM Tyle-II and other injuries all over the body and immediately she was shifted to Yashoda Hospital, Secunderabad, where she took treatment

as in-patient and underwent operation and in spite of proper treatment, she is suffering with permanent disability.

11. Further PW-2 Dr.Sanjib Kumar Behera, Consultant Orthopedic at Yashoda Hospital deposed that the petitioner was admitted in their hospital on 13.6.2012 with polytrauma with right bimalleolar fracture, dislocation and degloving injury posterior aspect of thigh and leg, deep laceration over forehead, swelling over right ankle and bruise over left fore-arm. PW-4 Dr.V.K.Sri Nagesh, Consultant Plastic and Cosmetic Surgeon at Yashoda Hospital deposed that the petitioner was admitted in their hospital thrice and she took treatment and underwent surgeries. PW-2 further deposed that in spite of taking treatment, she is suffering partial permanent disability to the extent of 35%. Ex.A14 is the disability certificate issued by the Medical Board. Considering the nature of injuries and the disability sustained by the petitioner, the Tribunal awarded an amount of Rs.75,000/- towards the injuries received in the accident and the disability sustained by her, which is very less.

12. According to PW-1, prior to the accident, she was doing tailoring work and was getting income of Rs.10,000/- per month but there is no evidence to that effect. Hence, the

income of the petitioner can be taken at Rs.5,000/- per month. She was aged about 60 years at the time of accident. Then the appropriate multiplier in light of the judgment of the Apex Court in ***Sarla Verma v. Delhi Transport Corporation***¹ would be “9”. Thus, the future loss of income due to 35% disability comes to $\text{Rs.}5,000 \times 12 \times 9 \times 35/100 = \text{Rs.}1,89,000/-$, which the petitioner/claimant is entitled. The petitioner is also entitled for an amount of **Rs.30,000/-** towards pain and sufferance. Further the Tribunal rightly awarded an amount of **Rs.50,751/-** towards medical expenses and as such, the same cannot be disturbed. The Tribunal also awarded an amount of Rs.2,500/- towards extra nourishment and Rs.2,500/- towards transportation charges, which are very meager. Thus, an amount of **Rs.10,000/-** is awarded to the petitioner towards transportation and attendant charges. The petitioner is also entitled for an amount of **Rs.15,000/-** towards loss of amenities and **Rs.5,000/-** towards extra nourishment. Thus in all the petitioner is entitled for **Rs.2,99,751/-**.

13. In the result, the M.A.C.M.A. is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.1,30,751/- to **Rs.2,99,751/-**. The enhanced amount

¹ 2009 ACJ 1298 (SC)

shall carry interest at 7.5% p.a. from the date of this Order till the date of realization against the respondent Nos. 1 and 2. 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.

M.G.PRIYADARSINI,J

11.10.2022
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