

THE HONOURABLE JUSTICE M.G. PRIYADARSINI

M.A.C.M.A.No.274 of 2017

JUDGMENT:

This appeal is filed by the appellant against the judgment and decree dated 29.11.2016 made in M.V.O.P.No.695 of 2015 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-XIV Additional District Judge, Ranga Reddy District (for short “the Tribunal”).

2. For the sake of convenience, the parties hereinafter will be referred to as arrayed before the Tribunal.

3. Appellant is the petitioner in the main O.P. According to the petitioner, on 29.05.2013 at 2.00 pm, he was proceeding as passenger in Auto bearing No.AP 28 X 3364 from Amangal to Hyderabad and when the said Auto reached near Beerappagutta limits, one RTC bus bearing No.AP 28 Z 1903 came in rash and negligent manner with high speed and dashed the said Auto from its backside. Due to which, auto turned turtle into a ditch, by the side of the road and he sustained grievous fracture injuries. Immediately, he was shifted to Osmania General Hospital, Hyderabad, for treatment and a surgery was done to his left leg, for which, he spent Rs.10,000/- towards medical treatment. Due to the said accident, the petitioner sustained

two injuries i.e., i) Fracture of subtrochanteic left femur, ii) Injury to left leg tenderness and Multiple injuries all over the body. According to the petitioner, he was doing stone business and earning Rs.30,000/- per month. Due to the injuries sustained by him, he was bed ridden and his movements were restricted and lost his income. Thus, the petitioner is claiming compensation of Rs.2,00,000/- for the injuries sustained by him against the respondents 1 and 2 jointly and severally.

4. Respondent No.1 filed counter stating that no such accident occurred and the petitioner has not submitted any record to show his age and earning capacity. It is further contended that the compensation claimed by the petitioner is excessive and therefore, prays to dismiss the petition.

5. Respondent No.2 filed counter disputing the manner of accident and further contended that the claim is exorbitant and sought for dismissal of the claim petition.

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

1. *Whether the petitioner is entitled to compensation of Rs.2,00,000/- with costs and interest against respondent Nos.1 and 2 as prayed for?*
2. *To what relief?*

7. In order to prove the issues, PWs.1 was examined and Exs.A1 to A6 got marked on behalf of the petitioner. On behalf of respondent No.1 and 2, no witnesses were examined and no document was marked.

8. Considering the oral and documentary evidence available on record, the Tribunal has dismissed the petition on the ground that the petitioner failed to prove that in which vehicle he was travelling at the time of accident and also for non submission of medical bills to support his claim.

9. Heard the learned counsel for the appellant-claimant and the learned Standing Counsel for the respondent No.1-Corporation. Perused the material available on record.

10. The learned counsel for the appellant-claimant has submitted that although the claimant, by way of evidence of P.W.1 coupled with Exs.A.1 to A.6, established the fact that while he was travelling in Auto bearing No.AP 28 X 3364, he received grievous injuries in the accident which occurred due to the rash and negligent driving of the driver of the RTC Bus bearing No. AP 28 Z 1903 and he took treatment in Osmania General Hospital, Hyderabad, the Tribunal has dismissed the petition without considering the same.

10. The learned Standing Counsel appearing on behalf of respondents-Corporation sought to sustain the impugned award of the Tribunal contending that considering the oral and documentary evidence on record, the learned Tribunal has rightly dismissed the petition and the same needs no interference by this Court.

11. Admittedly, there is no dispute with regard to the manner of accident. However, the Tribunal after evaluating the evidence of PW.1 coupled with the documentary evidence available on record held that the accident occurred due to rash and negligent driving of the driver of RTC bus bearing No.AP 28 Z 1903. Therefore, I see no reason to interfere with the finding of the Tribunal that the accident occurred due to the rash and negligent driving of the driver of the offending RTC bus.

12. Coming to the quantum of compensation, the Tribunal has dismissed the petition on the ground that the petitioner failed to prove that in which vehicle he was travelling at the time of accident. However, PW-1 in his cross-examination clearly stated that, in his petition it is mentioned that the accident occurred while he was traveling by auto. But in his chief affidavit, it is mentioned that the accident occurred while he

was traveling by bus. A perusal of the charge sheet, it clearly shows that the petitioner was traveling in the RTC bus at the time of accident. Therefore, it shows that due to typographical mistake, instead of RTC bus, the crime vehicle was typed as auto. It is the duty of the Courts to do justice to the parties and while doing justice, if the technicalities come in the way, much importance need not be given to these technicalities because, ultimately, justice has to be done to the parties. Therefore, the petitioner is entitled for compensation.

12. Coming to the quantum of compensation, as per the evidence available on record, the evidence of the claimant/PW-1 coupled with the documentary evidence shows that he sustained grievous injuries in the alleged accident and immediately he was taken to Osmania General Hospital for treatment and he took treatment in hospital from 29.05.2013 to 08.07.2013. As per Exs.A3 to A5, the petitioner has sustained only one grievous injury. Therefore, this Court is inclined to grant **Rs.25,000/-** towards one grievous injury, **Rs.25,000/-** towards pain and suffering, **Rs.20,000/-** towards transport charges, extra nourishment and attendant charges and **Rs.2,000/-** towards medical expenses. Further due to fracture injury sustained by the petitioner, he might not have attended

to his work for two months. According to PW-1, he was carrying stone business and earning Rs.30,000/- per month. However, there is no proof to prove his income. Therefore, his income can be taken at Rs.10,000/- and for two months an amount of **Rs.20,000/-** is awarded towards loss of earnings. Thus, in all the claimant is entitled to **Rs.92,000/-**.

14. Accordingly, the M.A.C.M.A. is partly allowed by awarding the compensation of **Rs.92,000/-**. The awarded amount shall carry interest at 6% p.a. from the date of petition till the date of realization, payable by respondent Nos. 1 and 2 jointly and severally. Time to deposit the amount is one month from the date of receipt of a copy of this order. On such deposit, the claimant is entitled to withdraw the amount without furnishing any security. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.G.PRIYADARSINI

24.01.2023
Gms/pgp

THE HONOURABLE JUSTICE M.G. PRIYADARSINI

M.A.C.M.A.No.274 of 2017

24.01.2023

Gms/pgp