

Andhra Pradesh High Court

Bench: Justice Dr. V. R. K. Krupa Sagar

Date of Decision: 31 October, 2023

M.A.C.M.A. No.521 of 2022

Andhra Pradesh State Road Transport CorporationAppellant

Versus

Battulak Mohana RaoRespondent

Section, Acts, Rules, and Articles:

Section 166, 171, 173 of the Motor Vehicles Act, 1988

Subject: Motor Vehicles Act – Appeal against an award by the Claims Tribunal – Injured claimant seeking compensation for injuries sustained in a bus accident – Driver’s negligence admitted – Award of compensation based on medical evidence – Permanent disability established – Interest rate in accordance with fixed deposit rates – Appeal dismissed.

Headnotes:

Miscellaneous Appeal – Motor Vehicles Act – Appeal filed by Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C.) challenging the compensation awarded by the Motor Accidents Claims Tribunal in favor of injured claimant. [Para 1]

Parties – Respondent No.1 is the injured claimant; Respondent No.2, the driver of the offending bus, not a necessary party. [Para 2]

Issues – Claims Tribunal framed three key issues: 1) Whether injuries were due to rash and negligent driving; 2) Entitlement to compensation; 3) Quantum of relief. [Para 4(b)]

Negligent Driving – Claims Tribunal found that the accident occurred due to the negligent driving of the bus driver, supported by driver’s own admission in a prior criminal case. [Para 8]

Compensation – Claims Tribunal awarded Rs.6,47,000 as total compensation under various heads including medical expenditure, pain and suffering, and permanent disability. [Para 4(d)]

Permanent Disability – Tribunal granted Rs.1,00,000 for permanent disability despite no certificate from a Medical Board; appellant’s objection overruled given strong medical evidence. [Para 10-12]

Rate of Interest – Claims Tribunal awarded 9% interest per annum; appellant failed to show why this rate was excessive. [Para 14]

Decision – Appeal dismissed; Claims Tribunal’s award of compensation and interest upheld. [Para 15]

Referred Cases: None.

Representing Advocates:

Sri M.Solomon Raju, the learned counsel for the appellant (A.P.S.R.T.C.)

JUDGMENT:

This Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 is filed by the Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C.) assailing the award dated 01.08.2022 passed by the Chairman, Motor Accidents Claims Tribunal-cum-XII Additional District and Sessions Judge, Vijayawada (hereinafter referred to as ‘the Claims Tribunal’) in M.V.O.P.No.530 of 2018.

2. Respondent No.1 is the injured claimant. Respondent No.2 is the driver of offending RTC bus who is shown as not a necessary party in this appeal.

3. Sri M.Solomon Raju, the learned counsel for appellant, submitted arguments. Despite notice being served, none entered appearance for respondent No.1/claimant.

4. The facts leading to the present appeal are as mentioned below:

- (a) Sri B.Mohana Rao aged about 70 years was travelling in A.P.S.R.T.C. bus bearing No.AP-28-Z-5415 on 02.09.2017. At about 8:30 A.M. the bus reached near old check post centre, Kanuru Village, Vijayawada. While he was getting down from the bus, without observing him the driver of A.P.S.R.T.C. bus by name Sri J.Nageswara Rao moved the bus ahead and as a consequence the victim passenger fell down and suffered serious injuries to his left leg. He underwent surgeries three times. He moved an application under Section 166 of the Motor Vehicles Act seeking compensation of Rs.10,00,000/-. Being the owner of the offending A.P.S.R.T.C. bus, the Managing Director put in contest and filed a counter.
- (b) The following issues were framed for consideration by the Claims Tribunal:
- 1) Whether the petitioner sustained injuries due to the motor vehicle accident occurred on 02.09.2017 at about 8:30 hours, near Balaji Hotel, old check post centre, Kanuru Village, Penamaluru Mandal, Krishna District and if so, whether the said injuries are caused due to rash and negligent driving of 1st respondent?
 - 2) Whether the petitioner is entitled for compensation prayed for?
 - 3) To what relief is the petitioner entitled?
- (c) The injured claimant testified as PW.1 and the doctor who treated him testified as PW.2. Exs.A.1 to A.7 and Exs.X.1 to X.5 were marked.
- (d) Sri J.Nageswara Rao, the driver of the offending bus testified as RW.1 and during his cross-examination a certified copy of judgment in C.C.No.381 of 2019 was confronted to him and he admitted the same and therefore, it was marked as Ex.A.8 on behalf of the injured claimant. After hearing arguments on both sides and after considering the entire material on record, in a detailed order the learned Claims Tribunal recorded its findings that the injuries sustained by the claimant were out of use of motor vehicle and the cause of it was negligent driving on part of the driver of the A.P.S.R.T.C. bus. Considering the injuries sustained by the individual and considering the 85% permanent partial disability suffered by him for his leg and considering the future expenses that were to be incurred for continuous treatment of the injured for another year, the learned Claims Tribunal awarded a total compensation of Rs.6,47,000/- under the following heads:

Attendant/Servant charges	Rs.10,000-00
Transport to hospital charges	Rs.10,000-00
Damage to clothing & articles	Rs. 2,000-00
Extra nourishment	Rs.25,000-00
Medical expenditure	Rs.4,00,000-00
Pain and Suffering	Rs.1,00,000-00
Permanent disability	Rs.1,00,000-00
Total claim	Rs.6,47,000-00

It granted 9% interest per annum and directed the respondents to deposit the same within 30 days.

5. Challenging the same, A.P.S.R.T.C. is in this appeal.
6. Learned counsel contends that respondent No.1/injured claimant himself was at negligent and not the driver of the offending bus and the learned Claims Tribunal did not consider the evidence properly and committed error. It is also argued that the Claims Tribunal granted excess compensation and excess rate of interest and it committed an error in granting Rs.1,00,000/- towards permanent disability though there is no certificate issued by competent Medical Board. There was no evidence concerning the income of the injured but the Claims Tribunal granted huge amount of compensation.
7. From the contentions raised by the appellant, the following point falls for consideration:

“Without there being any acceptable evidence whether the Claims Tribunal recorded that the injuries were out of rash or negligent driving of automobile by the driver of A.P.S.R.T.C. bus and whether the compensation awarded is incorrect on facts and law?”

POINT:

8. Record discloses that the injured claimant was travelling in the A.P.S.R.T.C. bus bearing registration No.AP-28-Z-5415 at the material point of time. According to the claimant, bus stopped and he was getting down from the bus and before he completed his act of alighting, the driver moved the bus and as a result he fell down and front tyre of the bus ran over his left leg and crushed it and caused severe injuries. According to the driver of the offending bus, the bus was still moving and the victim got down from the moving bus and suffered the injuries and therefore, negligence could not be attributed to him. Evidence on record disclose that about this accident Penamaluru Police Station registered Crime No.566 of 2017 and after due investigation it filed a charge sheet in C.C.No.381 of 2019 as against the driver of the offending bus and before the learned Magistrate the driver appeared and admitted his guilt and therefore he was found guilty of driving the offending A.P.S.R.T.C. bus negligently and he was convicted and sentenced to pay a fine of Rs.2,000/- and he accordingly paid it. That is evidenced by Ex.A.8 which is certified copy of judgment. When it was confronted to the driver who testified before the Claims Tribunal as RW.1 he admitted the truth of it. Thus, the contention of the victim about negligent driving on part of the driver of the offending bus was admitted to be the true version by the driver himself when he participated in the prosecution held by the learned Magistrate. In such circumstances, the Claims Tribunal rightly concluded that the accident was out of negligent driving of the offending RTC bus by its driver. There are no merits in what the appellant contends here to say anything contrary to that.
9. It is undisputed that the injured claimant was aged 70 years and he retired from his employment and his source of income or loss of income is not part of the record. Be it also noted that the Claims Tribunal did not grant any compensation under the head of loss of earning capacity. Therefore, the contention of the appellant that there was no evidence about income of the injured claimant is irrelevant for consideration.
10. Serious contention is raised in this appeal on the ground that the learned Claims Tribunal granted Rs.1,00,000/- for the permanent disability suffered by the injured claimant. Learned counsel for appellant submits that competent Medical Board did not issue any disability certificate and in the absence of it the Claims Tribunal should not have granted compensation under that head. The impugned award depicted the following facts as a justification for granting Rs.1,00,000/- towards permanent disability. It

observed that the injured claimant suffered avulsion injury left heel and loss of heel pad and skin over medino and lateral aspect of malleolus and half of spinal. There was crush of foot muscles. It considered Ex.X.3-discharge summary, Ex.X.4-discharge summary and Ex.A.4-bunch of 72 medical bills and Ex.X.5-case sheet of the patient and Ex.A.2wound certificate. In detail it considered the evidence of PW.2 Dr. Y.Chandra Mohan. Based on that evidence, it found that the injuries suffered by the victim were grievous in nature and he had to undergo surgery on three occasions and artificial implants were fixed as per the evidence of the doctor who treated him not only at the time of attending the patient but also just before the evidence was given before the Tribunal. This evidence was to the effect that the injured could not walk properly with his left leg and the disability to the left leg is 85% and that is permanent. He also mentioned that for the next coming one year the victim must continuously take treatment expending about Rs.5,000/- to Rs.10,000/- per month.

11. A man aged at 70 years who was still on his own able to attend his work commuting the public transport now all of a sudden suffered disability because of injuries sustained in this accident. He is now a dependant on others at that age. The healthy left leg now became not useful for a proper walk because of the injuries he sustained in the accident. Thus, there is loss of natural endowment.

12. It is in the above referred circumstances, the learned Claims Tribunal granted Rs.1,00,000/- as against Rs.3,00,000/- claimed by the injured. A.P.S.R.T.C./appellant did not adduce any medical evidence contradicting the medical evidence brought on record by the injured. This Court finds no reason to say that the Claims Tribunal granting compensation based on the truthful evidence given by a doctor need be castigated. When no one disputed 85% permanent disability for the left leg of the claimant, the question of proving it only through a certificate of disability issued by a Medical Board is unwarranted in the facts and circumstances of the case. There is absolutely no merit in what is contended by the appellant.

13. As against the claim of Rs.10,00,000/- the Claims Tribunal, after proper scrutiny of evidence, granted Rs.6,47,000/- which included expenses towards attendant charges, transportation charges to hospital, damages to clothing and articles and extra nourishment that is required to be taken at that old age by the victim and the actual medical expenses and compensating him for pain

and suffering and for permanent disability is absolutely in accordance with law and this Court finds no error on facts or law requiring any interference.

14. Section 171 of the Motor Vehicles Act permits the Tribunal to grant reasonable interest on the awarded compensation. Rate of interest as granted by the Nationalized Banks on fixed deposit receipts is considered to be the appropriate rate of interest. This accident occurred in the year 2017. Claims Tribunal granted 9% interest. Appellant failed to show that there was any other rate of interest from Nationalized Banks during the year 2017. In such circumstances, the contention of the learned counsel for appellant that the interest granted by the Claims Tribunal is excessive cannot be accepted. The point is answered against the appellant.
15. In the result, this Appeal is dismissed. Therefore, the appellant shall deposit the awarded amounts with the Claims Tribunal after giving due credit to what was already deposited. It shall be complied with within 30 days from the date of this judgment. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

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