

**THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO**

**M.A.C.M.A.No. 2151 of 2012**

**JUDGMENT:**

The appellant is the 3<sup>rd</sup> respondent/APSRTC and the respondents are claim petitioner and respondent Nos.1 and 2 in M.V.O.P.No.58 of 2002 on the file of the Chairman, Motor Accident Claims Tribunal-cum-VII Additional District Judge (Fast Track Court), Madanapalle. The appellant filed the appeal questioning the legal validity of the order of the Tribunal.

2. For the sake of convenience, both the parties in the appeal will be referred to as they are arrayed in the claim petition.

3. The petitioner filed the claim petition under Section 166 (1) of the Motor Vehicles Act, 1988 against the respondents claiming compensation of Rs.2,00,000/- for the injuries sustained by him in a road accident that took place on 18.06.2001.

4. The brief averments in the petition filed by the petitioner are as follows:

On 18.06.2001 the petitioner was proceeding on a lorry bearing registration No.AP 9V 797 to go to V.Kota and when the lorry reached near Chinnapareddypalle cross road at about 3.45 p.m., a bus bearing registration No.AP 9Z 7334 of the 3<sup>rd</sup> respondent being driven by its driver in a rash and negligent manner came and dashed the lorry, as a result, the petitioner sustained injuries. The 1<sup>st</sup> respondent is owner of the lorry, the 2<sup>nd</sup> respondent is insurer of the lorry and the 3<sup>rd</sup> respondent is owner of the bus, hence, all the respondents are jointly and severally liable to pay compensation to the petitioner.

5. The 1<sup>st</sup> respondent was set *ex parte*. Respondent Nos.2 and 3 filed written statements separately by denying the manner of accident, the age, avocation and income of the petitioner.

i) It is pleaded by the 2<sup>nd</sup> respondent/Insurance company that the 1<sup>st</sup> respondent/owner of the lorry violated the terms of the policy by

allowing the gratuitous passengers in the goods vehicle, as such, the Insurance company is not liable to pay any compensation.

ii) The 3<sup>rd</sup> respondent/APSRTC pleaded that due to negligent driving of the driver of the lorry the accident in question occurred, there was no negligence on the part of the driver of the bus of the 3<sup>rd</sup> respondent, therefore, the 3<sup>rd</sup> respondent is not liable to pay any compensation.

6. Based on the above pleadings of both the parties, the following issues were settled for trial by the Tribunal:

- 1) Whether the accident occurred due to rash and negligent driving of the offending vehicles bus bearing No.AP 9Z 7334 and lorry bearing No.AP 09V 797 involved in the accident and whether it resulted in injuries to the petitioner?
- 2) Whether the petitioner is entitled for compensation and if so, payable by whom and to what extent?
- 3) To what relief?

7. During the course of enquiry in the claim petition, on behalf of the petitioner, P.Ws.1 to 3 were examined and Exs.A.1 to A.7 were

marked. On behalf of the respondents, R.Ws.1 and 2 were examined and Ex.B.1 was marked.

8. At the culmination of the enquiry, based on the material available on record, the Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the driver of the offending bus and accordingly, allowed the petition in part and granted an amount of Rs.98,840/- with costs and interest at 9% p.a. from the date of petition till the date of deposit against the 3<sup>rd</sup> respondent/APSRTC and dismissed the claim petition against respondent Nos.1 and 2. Aggrieved against the said order, the 3<sup>rd</sup> respondent/APSRTC preferred the present appeal.

9. Heard the learned counsels for both the parties and perused the record.

10. The appellant/APSRTC contended that the Tribunal failed to consider that the accident occurred due to negligent driving of the driver of the lorry and also erred in awarding compensation under

various heads without proper proof of evidence. It is also contended that the rate of interest awarded by the Tribunal @ 9% p.a. is very excessive and the same may be reduced.

11. Now, the point for determination is:

Whether the order of the Tribunal needs any interference of this Court, if so, to what extent?

12. **POINT:** To substantiate the rash and negligent driving of the driver of the offending bus, the petitioner got examined himself as P.W.1 and also got marked Exs.A.1-certified copy of first information report and A.3-certified copy of charge sheet. P.W.1 reiterated the contents of the claim petition in her chief-examination. Nothing was elicited from his cross-examination to disprove his evidence in chief-examination. A perusal of Ex.A.1-certified copy of first information report shows that a case was registered against the driver of the offending RTC bus. Ex.A.3-certified copy of charge sheet also shows that after completion of investigation, a charge sheet was filed against the driver of the RTC bus holding him responsible for the accident.

The evidence of P.W.1 coupled with Exs.A.1 and A.3 clinchingly establish that the accident occurred due to rash and negligent driving of the driver of the offending RTC bus. On considering the evidence on record, the Tribunal also came to the same conclusion. Therefore, there is no need to interfere with the said finding given by the Tribunal.

13. Coming to the compensation, in order to prove the injuries and the disability sustained by him, the petitioner relied on the evidence of P.Ws.2 and 3 and Exs.A.2 and A.4. Ex.A.2-wound certificate discloses that the petitioner sustained a lacerated injury of 2cm x 4 cm on the left eye brow, abrasion of 2 cm x 4 cm below the right knee, fracture of left lower end of femur, and dislocation of left hip. P.W.2, Dr.M.Sanjeeva Rayudu, who treated the petitioner, deposed in his evidence that the petitioner sustained dislocation of left hip joint and fracture of shaft of lower third of left femur and he opined that the extent of permanent disability of the petitioner is 30% and he issued Ex.A.4-disability certificate. He also deposed that he conducted operation on the petitioner and inserted rods and for removal of the

rods, another surgery is required. On considering the evidence of P.W.2 and Ex.A.2-wound certificate, the Tribunal granted an amount of Rs.2,000/- for two simple injuries, Rs.15,000/- for fracture of left femur hip, Rs.5,000/- for dislocation of left hip, Rs.10,000/- towards medical expenses, Rs.3,000/- towards extra nourishment, Rs.2,000/- towards transportation and Rs.10,000/- for undergoing further operation. Though the petitioner failed to file any documentary proof before the Tribunal to establish his income, by giving cogent reasons, the Tribunal arrived the annual income of the petitioner at Rs.10,800/- and also fixed the age of the petitioner as 20 years. On considering the evidence of P.W.2 and Ex.A.4-disability certificate, the Tribunal granted an amount of Rs.51,840/- towards permanent disability. By giving cogent reasons, the Tribunal came to the conclusion that the petitioner is entitled to a total compensation of Rs.98,840/-. There is no legal flaw or infirmity in the said finding given by the Tribunal in awarding the quantum of compensation.

14. By giving valid reasons and by relying on the decision in **New India Assurance Co.Ltd. Vs. B. Malla Reddy** reported in 2002 (6) ALD 137, the Tribunal held in its order that the 3<sup>rd</sup> respondent/APSRTC alone is liable to pay the compensation. Therefore, there is no need to interfere with the said finding given by the Tribunal.

15. Insofar as awarding of interest @ 9% p.a. is concerned, since the accident took place in the year 2001, this Court finds merit in the submission of the learned counsel for the appellant/APSRTC that the Tribunal awarded exorbitant rate of interest, and therefore, the same has to be reduced from 9% p.a. to 7.5% p.a.

16. Accordingly, the appeal is disposed of and the decree and order dated 11.07.2005 passed by the Chairman, Motor Accident Claims Tribunal-cum-VII Additional District Judge (Fast Track Court), Madanapalle, in M.V.O.P.No.58 of 2002 is modified by reducing the rate of interest from 9% p.a. to 7.5% p.a. The order of the Tribunal in all other respects shall remain intact. No order as to costs.



As a sequel, miscellaneous petitions, if any, pending in the appeals shall stand closed.

24<sup>th</sup> August, 2023  
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**V.GOPALA KRISHNA RAO, J**

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