
(2003) 12 AP CK 0030
In the Andhra Pradesh High Court
Case No : CMA No. 359 of 2001

Ajmeera Govind

APPELLANT

Vs

Principal and Correspondent, Arvinda Residential School and
Another

RESPONDENT

Date of Decision : 26-12-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 168, 173

Citation : (2005) ACJ 1436 : (2004) 4 ALD 442 : (2004) 5 ALT 383

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : S. Raj Kumar, for the Appellant; Kota Subba Rao, for the Respondent

Final Decision : Allowed

Judgement

1. Aggrieved by the award of the Motor Accident Claims Tribunal-cum-Additional District Judge, Nizamabad, dated 20-11-1998, in awarding Rs. 75,000/- as compensation for the injuries received by him in a road accident, that has taken place on 10-8-1994, the claimant preferred this appeal.

2. It is the case of the claimant that he is a resident of Jallapalli Farm Kotgir and on 10-8-1994 at about 5.30 p.m., while he was coming on a cycle on the road near Hangirga farm B.T. Road, on Pothangal check post to Kollur road, the driver of the bus bearing No. AAJ-5599 belongs to Arvindo Residential School, Bodhan, driven by its driver in a rash and negligent manner with high speed dashed against him due to which he fell down and the bus ran over on his legs and thereby he sustained fracture on both legs and also multiple injuries all over his body. Immediately, he was admitted in the Government Hospital at Kotgir. On the same day he was shifted to Government Hospital, Nizamabad for better treatment. As per the version of the claimant, he was in the hospital for about two months and he was treated in Orthopaedic ward as he got crush injury with loss of skin from knee to ankle and also got operated twice.

3. According to him, he is aged about 28 years. Since there was loss of muscle power in the right leg he was unable to attend to any work. He also stated that he is having Ac.2.00 of agricultural land and he has also doing some commission business and thereby earning about Rs. 5000/- per month. Hence he filed the petition claiming compensation of Rs. 2.00 lakhs.

4. The victim - claimant himself examined as P.W.1 besides the doctor, who treated him at Government Hospital, Nizamabad as P.W.2 and one Pradeep Kumar, the villager to speak about the income of the victim - claimant, as P.W.3. Documents Exs.A1 to A9 were marked. On behalf of the respondents, neither any witnesses were examined nor any documents marked.

5. The Tribunal after appreciation of the evidence, recorded a finding that the accident has occurred due to rash and negligent driving of the driver of the vehicle bearing No. AAJ - 5599, belong to Arvindo Residential School, Bodhan, and awarded a lumpsum of Rs. 75,000/- as compensation. As far as the injuries received by the claimant - P.W.1 is concerned, P.W.2 the doctor, who treated him in the Government Hospital issued Ex-A4 discharge sheet, Ex-A8 Disability Certificate and Ex-A9 case sheet. From the case sheet Ex-A9, it is seen that the claimant was admitted in the Government Hospital, Nizamabad on 10.8.1994 and was discharged on 17.10.1994. Though the claimant in his evidence stated that he underwent operation twice, case sheet, Ex-A9 reveals that he was operated on 26.9.1994. As per Ex-A8, the doctor opined that the claimant got 50% permanent and partial disability. The photograph of the claimant shows that with the fractured leg he was unable to attend to any work. As per the Ex-A5 photos, it can be safely presumed that he was cannot attend to any work.

6. In fact, I feel that from knee to ankle, the right leg of the claimant was totally damaged. The Trial Court awarded compensation of Rs. 75,000/- to the claimant without dividing the compensation under various heads, which is highly illegal and not in consonance with the Provisions of the Motor Vehicles Act and also the ratio laid down by the Superior Courts while awarding the compensation. Even though the value of the medical bills Ex-A6 series produced by the claimant is less in amount, but from the nature of the injuries received by the claimant and the medicines prescribed in the case sheet, I am sure that he would have spent much more amounts. Being an illiterate person, he would not have kept all the medical bills with him. Likewise, from the case sheet Ex-A9 it is seen that he was kept in extra nourishment. Since there was heavy loss of blood, twice blood transmission was done and the claimant was kept in extra nourishment in the hospital itself, I feel at least Rs. 15,000/- should be awarded towards medical expenses and extra nourishment. The right leg of the claimant completely deformed and the left leg is some what enables him to stand up apart from receiving multiple injuries. Though there is no fracture the crush injury sustained by him made the life of the claimant became miserable and it is worse than a grievous fracture and even as per his evidence he was in the hospital for about two months. Hence I feel that for the injuries received by the claimant the

compensation of Rs. 25,000/- should be awarded.

7. It came to light through the evidence of P.W.1 that he is having two acres of land and he was also doing the commission business and thereby he was earning about Rs. 5,000/- per month and there is no contra evidence. Accordingly, the monthly income of the claimant is fixed at Rs. 5,000/-. On that basis, I am awarding Rs. 10,000/- towards loss of earning for the days, he was in the hospital and Rs. 1,12,000/- towards permanent and partial disability. Rs. 10,000/- was awarded as compensation for pain and suffering. In all the compensation payable comes to Rs. 1,72,000/-.

8. Hence the award of the Tribunal is set aside and a compensation of Rs. 1,72,000/- was directed to be paid by the respondents towards compensation to the claimant. The amount carries 9% interest from the date of petition till the date of realization. No costs.

9. Before parting with the case, I am inclined to state that most of the District Judges, are not applying their mind to the principles evaluated by the series of decisions written by the Superior Courts, as well as the provisions of the Motor Vehicle Act in awarding compensation. Though they are expected to award compensation under several heads taking the gravity of the injuries sustained by the victim, the income and status of the individual, they are awarding compensation arbitrarily, in some cases very low and in some cases fanciful amounts, forgetting the fact that they are directing the insurance companies to part the tax payers money towards compensation. I am one, who believes that the victim should get just and reasonable compensation. For that, the Judicial Officers are expected to do lot of exercise and apply their mind before passing any award, fixing the compensation payable to the claimant. Unfortunately, the Counsel engaged by the Insurance Companies, who is receiving the fees from the Company, do not even cross-examine the witnesses pointing out the loopholes in the evidence produced on behalf of the claimants. With the result, in many a case, the compensation awarded by the Tribunals headed by the Judicial Officers of the rank of District Judges is lacking of objectivity. They are disposing the cases in a very casual manner. Unfortunately, while the Advocates appearing for the claimants are not even taking the minimum care in producing proper evidence like examining the doctors, or other witnesses, production of medical records etc., in getting just and reasonable compensation to the victims. The Advocates appearing for the Insurance Companies are not trying to cross-examine the witnesses who are being examined on behalf of the claimants, even on the shabby evidence produced by them.

10. Accordingly, the appeal is allowed. No costs.