
(2012) 10 AP CK 0101
In the Andhra Pradesh High Court
Case No : M.A.C.M.A. No. 3073 of 2012

A.P. State Road Transport Corporation and Another	APPELLANT
Vs	
E. Kanakaiah	RESPONDENT

Date of Decision : 09-10-2012

Acts Referred:

Citation : (2012) 10 AP CK 0101

Hon'ble Judges : G. Krishna Mohan Reddy, J; Ashutosh Mohunta, J

Bench : Division Bench

Advocate : C. Sunil Kumar Reddy, for the Appellant; K. Jagathpal Reddy, for the Respondent

Final Decision : Dismissed

Judgement

G. Krishna Mohan Reddy, J.—In this appeal challenged award dated 16.11.2011 passed in M.V.O.P.No. 1140 of 2009 (O.P) on the file of Motor Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad. Whereas the appellants herein are the respondents the respondent herein is the petitioner in the O.P. For convenience sake, the parties hereinafter be referred to as they are arrayed in the O.P.

2. The petitioner filed the O.P. for awarding compensation of Rs. 18,00,000/- from the respondents 1 and 2, the Managing Director, APSRTC and the Manager, APSRTC, Imlibun Depot, on the ground that on 24.8.2009 while he was walking on the road margin at the Market yard, Secunderabad, after getting down from the APSRTC Bus bearing No. AP 11Z 1339, the same bus hit him from his behind due to rash and negligent driving of it and then the bus ran over his right leg as a result of which his right leg was crushed and later he was admitted in Gandhi Hospital for treatment by reason of which he became totally disabled person. He claims that his monthly income was Rs. 7,000/- per month apart from which he used to get batta of Rs. 50/- per day as a lorry driver.

3. The respondent filed counter specifically denying the pleas taken by the

petitioner putting the petitioner to establish his claim.

4. The petitioner, to prove his claim, got examined himself as P.W. 1 and three others as P.Ws. 2 to 4, and got marked Exs. A1 to A15. For the respondents no body was examined and no document was marked.

5. The Tribunal framed issues with regards to the question of negligence and also with regards to the question of payment of compensation. On the consideration of the oral and documentary evidence adduced on behalf of the petitioner and on hearing both the sides, the Tribunal upheld the issues in favour of the petitioner by and large, whereas taking his income at Rs. 8,352/- per month on the basis of Exs. A12 and A13 conduct certificate and salary certificate of the petitioner for the month of June, 2008, and applying the multiplier 14 in respect of its age (by virtue of the decision of the supreme Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, and also taking his functional disability at 100%, awarded Rs. 17,42,736/- under the following heads.

6. The Tribunal also directed the respondents to pay the total compensation amount to the petitioner within a period of one month from the date of the award, with interest at 6% per annum from the date of petition till the date of depositing the amount with proportionate costs, permitting the petitioner to withdraw immediately Rs. 5,00,000/- from the amount to be deposited.

7. No dispute is raised now on behalf of the respondents 1 and 2 with regards to the question of rash and negligent driving of the vehicle, the multiplier applied and other relevant factual aspects. The only dispute raised on their behalf is that in the O.P. the income of the petitioner was given as only Rs. 7,000/- per month by reason of which taking his monthly income at Rs. 8,352/- on the basis of Ex. A13 salary certificate issued by Guardsmarks Security & Logistic Services Pvt. Ltd., in particular is not tenable.

8. Therefore, it is only to be considered as to whether correct income of the petitioner was taken and consequently whether the compensation awarded is tenable.

9. Significantly as per the petition, his income was Rs. 7,000/- per month and he was also getting Rs. 50/- per day towards batta. If that batta is taken into consideration, his monthly income would come to Rs. 8500/-. P.W. 4, the Managing Director of the Guardsmarks Security & Logistic Services Pvt. Ltd., deposed in that context that the petitioner worked in their organization from 14.2.2008 to 28.4.2009 as driver and his salary was Rs. 8,352/- per month, out of which he was receiving a net salary of Rs. 7,001/- per month and he issued the salary certificate marked as Ex. A13, on the basis of which in fact the monthly income of the petitioner was determined. Absolutely there is no reason to disbelieve the evidence of P.W. 4.

10. For this purpose, the batta being paid to the petitioner as lorry driver has to be definitely taken into consideration. Thereby the monthly income of the

petitioner to be taken would be Rs. 8,500/- which accordingly should have been taken subject to reasonable constraints in that behalf. In that view of the matter, taking the income of the petitioner on the basis of Exs. A12 and 13 cannot be said to be unreasonable or exorbitant. Hence, there is no basis to uphold the claim of the first respondent by reason of which this appeal is to be dismissed. In the result, the appeal is dismissed without costs. Miscellaneous petitions pending if any shall stand closed.