

(1986) 12 AP CK 0001
In the Andhra Pradesh High Court

Mutyala Venkata Satyavathi

APPELLANT

Vs

Balaguri Tirumurthulu and Others

RESPONDENT

Date of Decision : 24-12-1986

Acts Referred:

Penal Code, 1860 (IPC) — Section 338

Citation : (1988) 1 ACC 84

Hon'ble Judges : Jagannadha Rao, J

Bench : Single Bench

Judgement

Jagannadha Rao, J.—This is an appeal preferred by the injured person before the Motor Accidents Claims Tribunal, Eluru wherein the Tribunal granted only a sum of Rs. 12,000/-. It may be noted that the appellant claimed a sum of Rs. 52,000/- her petition. As a result of the accident which occurred on 3-4-1979 the right leg of the Appellant had to be amputated. At the time of the accident in the year 1979 she was about 10 years old. Dissatisfied with the award made by the Tribunal the appellant has filed this appeal.

2. It may be noted that a sum of Rs. 12,000/- was awarded by the Tribunal after coming to conclusion that the driver of the vehicle was negligent in driving the vehicle. Against that award, the Respondents have neither preferred an independent appeal nor filed cross objections. They are therefore precluded from questioning the finding relating to the negligence. The only point urged before me in this appeal by both the parties is in relation to the quantum of compensation.

3. It is urged by the Learned Counsel for the Appellant Sri DI. Parthasarathy that having regard to the serious injuries afflicted to the appellant consequent to the negligence of the driver of the vehicle and the amputation of right leg of the appellant, who at the relevant time a girl of ten years, the compensation awarded by the Tribunal is hopelessly meagre and that it was fit case where compensation should have been granted at Rs. 52,000/-. I have also heard the learned Counsel for the contesting respondents.

4. The accident had occurred on 3-4-1979. On that day the appellant got down from the passenger bus at Vadapalli near Vinayaka Temple and when she was proceeding in front of the said bus from east to west, the bus driven by the first respondent on the wrong side of the road, without blowing horn and running at high speed dashed against the appellant. On account of the said impact, the right leg of the appellant was caught in between the left wheel and the mud-guard and she sustained a crush injury. She was taken to the Rajahmundry Hospital wherein her right leg was amputated. The appellant examined herself as P.W. 1. P.W. 4 is a resident of Vadapalli who is also a witness to the accident. A case was registered against the first respondent for an offence u/s 338 IPC wherein the first respondent admitted his guilt and was accordingly convicted and was fined Rs. 300/- The appellant claimed a sum of Rs. 50,000/- as compensation towards general damages and Rs. 2,000/- as special damages. She stated that she was taken to the hospital at Rajahmundry and was examined on 4-3-1979 by a Doctor who issued a certificate Ex. A. 5. It was found that the appellant sustained a crush injury on the right lower limb with fracture of middle of right thigh bone with exposure of muscles and nerves of the right leg and lower half of right thigh were crushed and that she received other injuries. The appellant was treated as inpatient from 30-4-1979 to 16-5-1979 wherein her right leg was amputated. P.W. 3 is the father of the appellant and he stated that the appellant was an intelligent girl and that she was studying but on account of the accident she had to discontinue her studies as she was unable to go to school. He stated that he spent a sum of Rs. 3,000/- for the medical treatment. P.W. 3 owns an acre of land and he is an agriculturist.

5. The Court below thought that nothing need be awarded as special damages and that only a sum of Rs. 12,000/- is to be awarded as general damages. In my opinion, the award is undoubtedly low. The appellant was good in her studies and she was aged ten years at the time of the accident. The family is a respectable family having some agricultural land. Consequent to the accident, the appellant was unable to continue her studies. It is obvious that she has to depend upon others and it would be difficult for her to maintain herself. There is also the question of her marriage. The Tribunal did not consider the real and perspective loss of the appellant on account of the accident. The Tribunal was not fully conscious of the great disability that the accident has brought into the life of the appellant. Her whole life is shattered. In cases of amputation of leg, the Gujarat High Court in Popatlal v. Gujarat S.R.T.C. 1982 ACJ 45 awarded Rs. 52,000/- and the Delhi High Court in Jugal Kishore v. Rai Singh 1982 ACJ 503 awarded Rs. 1 lakh, and the Jammu and Kashmir High Court awarded Rs. 50,000/- in United Fire and General Insurance Co. Ltd. and etc. Vs. Lakshmi Shori Ganjoo and Others, etc., The Allahabad High Court in Suresh Chandra Saxena Vs. Union of India (UOI) and Another, awarded Rs. 37,000/- the Karnataka High Court in Karnataka State Road Transport Corporation Vs. Samuel Ebenezer Abnes, awarded Rs. 40,000/- the Bombay High Court in Nasibdar Suba Fakir Vs. Adhia and Company and Others, granted Rs. 40,200/-.

6. The Supreme Court in Pushpa Thakur Vs. Union of India (UOI) and Another, awarded Rs. 1 lakh.

7. Having regard to the gravity of the injury, I am of the view that the appellant should have been granted a sum of Rs. 35,000/- as damages. The Supreme Court has recently granted interest at 12% P.A. for a claim arising out of Motor Vehicles Act in Smt. Chameli Wati and Another Vs. Municipal Corporation of Delhi and Others, In that case the Supreme Court awarded interest at 12% P.A. from the date of petition.

8. Accordingly, this appeal is partly allowed and the appellant is granted compensation of Rs. 35,000/- with interest at 12% P.A. from the date of the petition. There shall be no order as to costs.