

(1995) 09 AP CK 0071

In the Andhra Pradesh High Court

Case No : Appeal Against Order No. 661 of 1992

P. Raju

APPELLANT

Vs

The Managing Director, The Chittoor Co-operative Sugars Ltd.
and Another

RESPONDENT

Date of Decision : 15-09-1995

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (1996) 1 ALT 827

Hon'ble Judges : N.Y. Hanumanthappa, J; Maithili Sharan, J

Bench : Division Bench

Advocate : T. Niranjan Reddy, for the Appellant; N.V. Jagannath, for the Respondent

Judgement

N.Y. Hanumanthappa, J.—Aggrieved by the award dated 18-2-1992 in O.P. No. 162 of 1990 on the file of the Motor Accidents Claims Tribunal-cum-I Additional District Judge, Chittoor, the claimant has filed this appeal.

2. It is most unfortunate that a brilliant student and athlete by name Mr. P. Raju, the appellant herein had to lose his left leg not because of his fault, but because of the fault of the driver of the vehicle bearing registration No. ADC 3282 belonging to the first respondent and insured with the second respondent.

3. The facts, in brief, are that the claimant was a student of Intermediate in M.P.C. group studying in Chittoor. While he was returning home on a cycle from Indoor Stadium at Chittoor, on 27-1-1990 at about 4-15 p.m., the bus bearing No. ADC 3282, involved in the accident, came in a rash and negligent manner in the opposite direction and on wrong side and hit the claimant near the place opposite to the Collector's Bungalow, Chittoor on Chittoor-Tiruttani Road, as a consequence of which, he suffered multiple injuries to his left leg. Thereafter he had been admitted as in-patient at C.M.C. Hospital, Vellore and at other places. The final result of the accident was amputation of left leg upto the knee level and had grafting twice.

4. The claimant filed an application u/s 166 of the Motor Vehicles Act claiming a total compensation of Rs. 7,00,000-00 which includes the expenses of Rs.20,000-00 incurred for the treatment as on the date of petition.

5. Respondent Nos. 1 and 2 filed their counters contesting the claim put forth by the claimant.

6. On the basis of the pleadings, the MACT framed the following issues:

1. Did the accident in which the petitioner is alleged to have sustained injuries take place on 27-1-1990 at about 4-15 p.m. due to rash and negligent driving of the school bus ADC 3282 by its driver or due to the negligence of the petitioner himself?

2. Is the petitioner entitled to claim a sum of Rs. 7,00,000-00 as compensation, if not to what amount?

7. On behalf of the claimant, P.Ws. 1 to 4 including the claimant himself as P.W.1 were examined. Exs.A-1 to A-21 were got marked. On behalf of respondents, the driver of the bus involved in the accident was examined as R. W.I and got marked Exs.B-1 and B-2. Ex.R-1 is the Insurance Policy issued by respondent No. 2 in respect of the bus involved in the accident.

8. The MACT, after holding enquiry, found that the accident was due to rash and negligent driving of the bus by its driver which resulted in amputation of left leg of the claimant upto knee level as per the certificate issued by the doctor.

9. Regarding compensation, the MACT, no doubt took into consideration the treatment that was given to the claimant, but disallowed the claim made by him on several head including disbelieving the amounts spent by him as in-patient in the hospital. In all it granted a sum of Rs. 67,425-00 out of which Rs. 50,000-00 towards permanent disability; pain and suffering; Rs. 16,000-00 towards medical expenses; Rs. 1,225-00 towards the lodging charges and Rs. 200-00 towards transportation was awarded.

10. We perused the evidence on record and found that the nature of the accident, injury caused and its ultimate result, as held by the MACT, are not in dispute.

11. In regard to the compensation awarded, we feel that the MACT is not justified in granting a small sum, that too as lumpsum, instead of bifurcating the same under different heads. However, the MACT should have taken the age of the boy, his avocation and mental make up because of the result of the accident. It has come in evidence that the boy was a student of intermediate and was a good athlete. For no fault of him, he had to lose his left leg upto the knee level depriving of chances of getting higher education and other prospects in life. No doubt, the claimant claimed a little exorbitant amount towards compensation under different heads. In matters of this type, it is difficult to ascertain the income. Awarding of compensation will be on a guess work and sometimes

supported by decisions of the Courts rendered under similar circumstances. In the similar circumstances, a Division Bench of this Court in *United India Insurance Co. Ltd. and Others Vs. Shaik Saibaqtualla and Others*,)while considering the case of an injured person, held that because of the accident there was dislocation of left hip-joint and sustained 65% permanent disability and suffered restriction in the movement of knee, that he cannot squat on the floor cross-legged, that the injured was a Research Scholar at his prime of youth became crippled and all his prospects of life have been affected, that the tribunal awarded Rs. 3,30,000-00.

12. In another case, a learned single Judge of this Court in *Montey Appalaraju and another Vs. Kotteti Talupulamma alias Tallamma and others*, while considering the issue relating to awarding of damages towards pecuniary and non-pecuniary loss in respect of a student studying tenth class aged about 17 years injured in a lorry accident with permanent disability of 75% held that awarding of compensation of Rs. 2,43,000-00 towards the future loss of earnings as reasonable.

13. Applying the principles laid down in the judgment of the Division Bench of this Court *supra*, we feel safe to apply the same to the facts on hand to arrive just and reasonable conclusion accordingly. Since the award granted by the MACT is quite inadequate, we hold that the claimant is entitled for the compensation in the following manner.

14. A sum of Rs. 2,00,000-00 towards permanent disability, Rs. 1,00,000-00 towards pain, suffering, loss of amenities in life and loss of prospects in marriage; Rs. 50,000-00 towards medical expenses, nutritious food, transportation charges, lodging expenses, etc. Thus, the claimant is entitled to a total compensation of Rs. 3,50,000-00 (Rupees three lakhs fifty thousand only) with interest at 12% per annum from the date of petition till the date of realisation.

15. Accordingly, the C.M.A. is disposed of. No costs.