
(2000) 08 AP CK 0064
In the Andhra Pradesh High Court
Case No : AAO No. 1742 of 1991

Pithula Pathrudu

APPELLANT

Vs

Botta Chinna Rao and others

RESPONDENT

Date of Decision : 08-08-2000

Acts Referred:

Motor Vehicles Act, 1988 — Section 168

Citation : (2002) ACJ 1370 : (2000) 5 ALD 737

Hon'ble Judges : Ghulam Mohammed, J

Bench : Single Bench

Advocate : Mr. G. Rama Gopal, for the Appellant; Mr. K.V. Ramana Rao, SC for Insurance Company, for the Respondent

Judgement

1. This is an unfortunate case of motor accident injury wherein the appellant sustained brain injury and describing it as organic psychosis filed a claim petition u/s 168 of the Motor Vehicles Act for a sum of Rs.2,20,000/-. The Tribunal awarded compensation of Rs.51,000/- both under pecuniary and non-pecuniary damages.

2. The brief facts of the case are as follows:

On 10-1-1990 at about 8.15 p.m. the injured appellant Pothula Patrudu along with some other persons started on a cycle to witness second show cinema in Swamy theatre, Thagarapuvalasa from their village Kapula Uppada. When they reached the garden of Katanpeta, a Metador Van bearing No.ADJ 2464 which was coming from Thagarapuvalasa towards Bheemili Road in a rash and negligent manner without blowing horn, dashed the cycle of the appellant and the appellant fell down on the road and sustained injuries on the left eyebrow, left chin, a severe contusion to the head and abrasions to both the knees of the legs. The petitioner was taken in the same van and admitted in the Government Hospital, Bheemunipatnam. It is stated that at the time of accident, the petitioner was an agricultural labourer earning Rs.1200/-per month and due to the injuries sustained, he became disabled and was not able to carry on the

agricultural operations, thus claimed the abovesaid compensation.

3. The 1st and 2nd respondents namely, the driver and the owner of the vehicle remained ex parte, whereas the 3rd respondent Insurance Company filed counter disputing the earning and attributing negligence on the part of the cyclist stating that he was carelessly driving the bicycle and he himself is responsible for the said accident and the compensation claimed is excessive.

4. One the above pleadings, the Tribunal framed necessary issues for consideration. The first issue as regards the negligence aspect is concerned, the appellant has produced both oral as well as documentary evidence to substantiate his claim. The Tribunal while believing the version of PW3 who is an eye-witness to the incident rightly held that the accident occurred due to the rash and negligent driving of the driver of the vehicle and also held that the evidence of PW3 is in corroboration with the claim petition.

5. As regards the determination of just compensation under the provisions of Section 168 of the Motor Vehicles Act, the learned Counsel for the appellant Sri G. Ramagopal Rao contended that the entire approach of the Tribunal is inequitable and in as much as the Tribunal has not awarded the compensation as claimed by the appellant herein by following the reasonable criteria as contemplated under the provisions of the Motor Vehicles Act. As regards the issue in not appreciating the medical evidence in proper perspective is concerned, he drew my attention to the medical evidence, namely, the evidence of the Doctor who was examined as PW1 and also the certificate issued by him under EX.A1.

6. To determine the compensation in a case of this nature, it is essential and necessary to go through the medical evidence and see the effect of the accident by which the appellant injured became disabled and deprived of his comforts and also the fruits of life.

7. PW1 Dr G.D.Bhagya Rao, Assistant Professor of Psychiatry, Government Hospital for mental care, Visakhapatnam, deposed that he examined Pathrudul Appellant and when the appellant-injured brought to the hospital with the following complaints, namely, loss of speech, biting people, loss of power in left upper and lower limbs and throwing away articles from home and he observed that the appellant was suffering with organic psychosis due to brain damage following head injury and he issued Ex.A1-Wound Certificate. In the cross-examination he stated that immediately he has not treated the patient but he gave treatment for psychiatric complications and he also stated that it is a case of mental disability and it cannot be assessed in terms of percentage of disability and the percentage of disability will be assessed only in cases of physical disabilities.

8. Stedman 's Medical Dictionary defines "Organic Psychosis as follows: "a medical disorder causing gross distortion or disorganisation of a person's mental capacity, effective response, and capacity to recognise reality, communicate, and

relates to others to the degree of interfering with his capacity to cope with the ordinary demands of everyday life. The psychos are divided into two major classifications according to their origins: (1) P. associated with organic brain syndromes (e.g., Korsakoff s syndrome) and functional p.); (2) A. generic term for any of the insanities, the most common form being the schizophrenias (3) A severe emotional illness."

9. The learned Counsel for the appellant has drawn my attention to the decision of this Court reported in P. Satyanarayana Being of M.V. Subba Rao Vs. State of Andhra Pradesh and Another, , wherein the learned Judge has rightly considered the aspect of total wreck. That was a case relating to the loss of both eyes and severe head injury resulting in total loss of mental faculties. In the above said case this Court has classified the injuries into four categories : (a) total wrecks; (b) partial wrecks and (c) where limbs and eyes and other specific parts of the body are lost, other specific parts of the body are lost, which can be sub-grouped according to the type of limb lost and (d) smaller injuries which cannot be specifically grouped but for which compensation can be assessed by comparison with injuries of loss, limbs, e.g., comparing permanent "wrist injury" with of loss of hand", or comparing a temporary broken arm with the loss of the arm, etc.

10. With regard to the 1st category, namely, "total wreck", it comprises of cases of complete incapacity for work and virtually no enjoyment of life, e.g., paralysis, severe brain injury causing insanity, multiple injuries leaving the victim a total cripple. Taking the clue from the decision of this Court and having regard to the medical evidence on record, i.e., the evidence of the Doctor-PW1 who described the ailment as "organic psychosis" which comes under the total wreck since he has become totally instance and incapable to do any work, it can be treated as total disablement and the compensation has to be awarded as per the judgment of this Court for both pecuniary and non-pecuniary damages. The pecuniary loss has to be assessed in terms of the loss of income and non-pecuniary loss has to be assessed under three items, namely, pain and suffering, loss of amenities or enjoyment of fruits of life and thirdly, loss of expectation of life. Taking into consideration the above background of the case and also considering the medical evidence on record and the evidence of PW2 who is the father of the appellant who deposed that the injured-appellant was working as a labourer and earning an amount of Rs.1200/- per month, and considering the overall situation as also the age of the injured as 20 years, I deem it to take Rs.600/- as the monthly income of the appellant; the total income per year comes to Rs.7,200/- and following the judgment of the Apex Court, in UPSRTC v. Trilokchandra 1996 ACC 592 (SC), proper multiplier has to be taken as 18. If the multiplier of 18 is used, it comes to Rs. 1,29,600/- towards loss of income, which comes under the head of pecuniary loss.

11. The learned Counsel for the respondent Sri Ramanarao contended that had the appellant been given proper medical care, this situation would not have taken place and there is no question of treating this case under the category of

total wreck. I do not agree with the contention of the learned Counsel.

12. Now coming to the question of grant of compensation under the head "Non-pecuniary Loss", following the decision in UPSRTC v. Trilokchandra (supra) I deem it proper to grant Rs.50,000/- under the head. Accordingly an amount of Rs.50,000/- is hereby awarded towards non-pecuniary loss.

13. In the result the award of the Tribunal is modified by enhancing the compensation from Rs.51,000/- to Rs. 1,79,600/- together with interest from the date of petition till the date of realisation jointly and severally by the respondents.

14. The appeal is accordingly allowed. No order as to costs.