

(1996) 02 OHC CK 0003
In the Orissa High Court

Pramod @ Prabodha Kumar Satpathy	APPELLANT
Vs	
A.V. Narasingha Rao and Another	RESPONDENT

Date of Decision : 01-02-1996

Acts Referred:

Citation : (1996) 1 ACC 652 : (1996) 81 CLT 720

Hon'ble Judges : D.M. Patnaik, J

Bench : Single Bench

Judgement

D.M. Patnaik, J.—In this appeal the appellant assails the inadequate award of compensation by the 2nd Motor Accident Claims Tribunal, Cuttack (for short, the "M.A.C.T.").

2. At the relevant time, the appellant was the driver of the bus bearing Registration No. OSU 9404. The accident took place near Manguli Chhak on 10.9.87 when this bus was proceeding from Cuttack to Bari side. The offending truck bearing Registration No. ATK 2214 was coming from the opposite side and it was the case of the appellant that because of the rash and negligent driving by the driver of the said truck, the accident occurred as a result of which the appellant suffered severe bodily injuries, particularly, injuries on the abdomen and on the face. The injuries on the face having rendered him disfigured, he claimed compensation of Rs. 1,50,000/- but the learned 2nd M.A.C.T. awarded a sum of Rs. 50,000/- which is assailed in this appeal.

3. Heard Mr. P.P. Mishra, learned Counsel for the appellant and Mr. Minha, learned Counsel for respondent No. 2, the Insurance Company.

It is urged by Mr. Mishra referring to the evidence on record, particularly the evidence of the doctor (PW 5) that in view of the seriousness of the injuries, it would have been proper on the part of the learned 2nd M.A.C.T. to award higher compensation than the compensation awarded which is found to be inadequate and absolutely on the lower side. Mr. Sinha, on the other hand, supports the judgment of the learned 2nd M.A.C.T.

4. Having gone through the judgment of the learned 2nd M.A.C.T. and the materials on record, I find that in view of the injuries sustained by the appellant the amount so awarded is found to be rather on the lower side, the reason being as follows:

PW 5 is the doctor who at the relevant time was the Assistant Surgeon on duty. In his evidence he stated to have treated the appellant on being admitted through the Casualty Ward of the S.C.B. Medical College Hospital, Cuttack and a major operation on the abdomen had to be undertaken and further, because of the multiple injuries, as is evident from his evidence, the injured was also referred to the Professor ENT, Professor Dental Surgery and Professor Neuro Surgery. The doctor proved the bed-head ticket which has been marked as Ext. 3. It is also in the evidence of the doctor that the appellant lost 14 teeth and further the doctor opined that there would be difficulty in chewing. The disfiguration of the face was also opined by the doctor. The operation so undertaken took a considerable time, as stated by the doctor, i.e. from evening to morning and that six bottles of blood were transfused.

In the cross-examination by the Insurance Company nothing material has been brought out to discredit the evidence of the doctor with regard to the finding as to the injuries on the appellant and his opinion with regard to future difficulty in chewing food. No doubt, the doctor has opined that the appellant would be in a position to drive light vehicle but cannot drive heavy vehicle.

5. Considering all these aspects of the case, it is rather thought fit that the amount of compensation should be enhanced by another Rs. 20,000/- to be paid by the respondent-Insurance Company alongwith interest at the rate of 9% since the award is found to be on the lower side.

6. In the result, the appeal is allowed, but in the facts and circumstances of the case parties to "bear their own cost. The respondent-Insurance Company is directed to pay the enhanced sum of Rs. 20,000/- alongwith interest at the rate of 9% per cent from 9.4.91 i.e. from the date of filing of the appeal. This amount shall be paid within three months from today.