

Kosuru Gupteswara Rao Vs Charakana Sreenu and Others

Court: Andhra Pradesh High Court

Date of Decision: June 21, 2004

Acts Referred: Motor Vehicles Act, 1988 " Section 168, 173

Citation: (2005) ACJ 468 : (2005) 1 ALD 790

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: Janathi SC Sekhar, for the Appellant; R. Venkata Rao, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.

This civil miscellaneous appeal arises out of the order dated 31.10.1994 passed by the Motor Accidents Claims

Tribunal-cum-Additional District Judge, Vizianagaram in O.P. No. 240 of 1993. The appellant is employed as driver in Orissa State Road

Transport Corporation. On 9.5.1993 he was driving the vehicle bearing Reg. No. OR 10/3604 on the route from Jaypore to Vizianagaram. At

midnight, when the bus reached Kottakki bridge, the lorry bearing No. AIP 889, owned by the second respondent, driven by the first respondent,

dashed against the bus. The appellant received injury on the head particularly at the eye. He was taken to Government Hospital at Salur and

thereafter to Government Hospital, Vizianagaram. Since the injury to the eye was serious, he was referred to Sarojini Devi Eye Hospital,

Hyderabad. He was treated there and even after treatment, the disability to the right eye persisted.

2. The appellant claimed a compensation of Rs. 2,50,000/- under various heads, namely, Rs. 25,000/- for transport to hospital, expenses for

treatment and extra nourishment, Rs. 10,000/- towards loss of salary, Rs. 25,000/- towards pain and suffering and Rs. 1,90,000/- towards loss of

earnings and permanent disability.

3. On behalf of the appellant, P. Ws. 1 and 2 were examined and Exs.A1 to A4 and Exs. XI to X8 were marked. No evidence was adduced on

behalf of the respondents.

4. Learned Counsel for the appellant submits that it was clearly established before the Tribunal that the appellant suffered 30% permanent disability

to vision and that in turn has rendered him unfit to hold the post of driver. He states that the Tribunal ought to have awarded the sum as claimed by

the appellant.

5. Civil miscellaneous appeal is dismissed against Respondents 1 and 2 viz., driver and owner of the vehicle respectively. In view of the recent

pronouncement of this Court, dismissal of O.P. against the driver and owner of the vehicle does not disable the appellant to pursue the claim

against the Insurer.

6. Learned Counsel for the third respondent, Insurance Company, submits that the Tribunal has taken into account the extent of disability suffered

by the appellant and awarded adequate compensation. He submits that no interference is called for.

7. In the accident that took place on 9.5.1993, the appellant, who was driving the bus bearing No. OR. 10/3604 suffered an injury to the eye. The

lorry involved in the accident is owned by the second respondent, insured with the third respondent. The finding of the Tribunal that the accident

took place on account of the rash and negligent driving of the driver of the lorry has become final and is not challenged. The dispute is only as to

the quantum of compensation.

8. The appellant claimed a sum of Rs. 25,000/- towards expenses incurred for transport to hospital, treatment, cost of medicines and extra

nourishment. The Tribunal took into account the fact that the petitioner was treated at Government Hospitals and that free transport was provided

to him. No bills evidencing the purchase of medicines were placed before the Tribunal. Under those circumstances, awarding Rs. 10,000/- cannot

be said to be without basis.

9. The Tribunal disallowed the claim of the appellant for award of Rs. 10,000/- towards loss of salary. The appellant did not place any material

before the Tribunal to show that he was denied the wages at any point of time on account of the accident. Therefore, no exception can be taken to

the finding of the Tribunal. As against Rs. 25,000/- claimed towards pain and suffering, the Tribunal awarded a sum of Rs. 10,000/-. The amount

of suffering undergone by a person, who sustained a serious injury to the eye is not at all difficult to be imagined. The appellant has undergone

suffering of a very high degree for a considerable length of time. The Tribunal awarded only a sum of Rs. 10,000/-. This Court is of the view that

the same deserves to be enhanced by Rs. 5,000/-.

10. The major item of claim of the appellant is towards loss of earning and permanent disability. He claimed a sum of Rs. 1,90,000/- and the

Tribunal awarded Rs. 45,000/-. As observed earlier, the appellant is employed as driver. Vision is the most important eligibility for a driver. The

evidence on record discloses that the appellant suffered disability to vision to the extent of 30%. That disentitles him to be continued as driver. It

may be true that he would be offered a different kind of employment as a compassionate measure. That cannot be a substitute for the continued

employment as driver. Further, the Tribunal did record a finding that the appellant suffered disfigurement of the face. For all these reasons, the

amount of Rs. 45,000/- cannot be said to adequate. This Court is of the view that ends of justice would be met if this amount is enhanced by Rs.

30,000/-. In all, the compensation stands enhanced to Rs. 1,00,000/-.

11. The appeal is accordingly allowed and the compensation awarded to the appellant shall stand enhanced from Rs. 65,000/- to Rs. 1,00,000/-.

The enhanced amount shall carry interest at the rate of 9% p.a.