

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 5757 OF 2005

B.P. CHOKHANI

.....

APPELLANT

VERSUS

APSRTC, REP BY ITS GM. HYDERABAD

.....

RESPONDENT

O R D E R

This appeal arises from a motor accident claim filed by the appellant who met with an accident on November 22, 1992. In the accident, the appellant suffered major injuries as a result of which he was hospitalised for long periods on a number of occasions spread over about four years and in the end suffered from 90 per cent disability on the right lower limb, 60per cent permanent disability on the left lower limb and disability in left wrist to the extent of 10 per cent.

He filed his claim application on 07th March, 1993, in which he claimed compensation for medical expenses in the sum of Rs. 3,80,000/- and compensation for pain and suffering and loss of earning capacity in the sum of Rs. 3,00,000/- and Rs. 8,00,000/- respectively apart from compensation under other different heads. It may be noticed that even after the filing of the claim petition on March 7, 1993, the appellant underwent indoor medical treatment for different periods on a number of occasions which has inter alia increased his medical expenses.

During the pendency of the proceedings before the Motor Accident Claims Tribunal, he filed an interlocutory application claiming that his total medical expenses had gone up to Rs.11,00,000/- and under the loss of income he was entitled to a sum of Rs.20,00,000/-. In the course of the proceedings before the Tribunal, in his deposition, he has stated that the total medical expenses incurred by him was to the tune of Rs.20,00,000/-, even though he was able to file documentary evidence in regard to the medical expenses only for a sum of Rs. 9,00,000/-. The Tribunal by its Award dated 30th August, 1997 made in MBOP No. 536 of 1993 held and found that the accident

took place partly due to the negligence of the appellant and it was, therefore, a contributory negligence in which the appellant's liability was assessed at 40 per cent. The Tribunal found and held that the appellant was entitled to a sum of Rs.2,00,000/- towards loss of business; a sum of Rs.5,00,000/- for medical expenses; another sum of Rs.50,000/- towards pain and suffering and a sum of Rs.50,000/- towards partial permanent disability. All these sums add up to Rs. 8,00,000/- and the accident being contributory in nature, the appellant was held entitled to 60 per cent of the aforesaid sum, being Rs 4,80,000/-. The appellant went in appeal before the High Court but the appeal was dismissed by a brief order in which the High Court does not seem to have properly adverted to the appellant's grievances.

On hearing Mr. Akhilesh Kumar Pandey, learned counsel appearing for the appellant and Mr. Praveen Kumar Pandey, learned counsel for the respondent-Andhra Pradesh State Road Transport Corporation (APSRTC), we are of the view that the amount of compensation determined by the Tribunal towards his medical expenses clearly warrants an interference by us. It has to be noted that the end of paragraph 12 of the Award (at

page 48 of the paper book), the Tribunal observed as follows:

"Therefore, however, the petitioner has claimed that he has incurred Rs.12,00,000/- towards medical expenses and has produced bills only for Rs.9,00,000/- as is admitted by him in his evidence. I am of the view that all these expenses incurred by him are only absolutely necessary and incurred in view of the nature of injuries sustained in the accident."

One paragraph thereafter in paragraph 14, the Tribunal said as under:

"In the absence of medical evidence to show that the petitioner required all those amounts said to have been incurred by him and paid by him tot he injuries, I am of the view that it is just and reasonable if a total sum of Rs.5,00,000/- is given for medical expenses, stay in the hospitals.."

We are plainly at loss to reconcile the two passages in the Tribunal's Award having held that the appellant had to spend Rs. 9,00,000/- for his medical expenses which was absolutely necessary, we are unable to see how could the Tribunal say that in the absence

of medical evidence, it could not be said that the expenses incurred by him were reasonable and proper. We are, therefore, clearly of the view that the Tribunal was in error in reducing the amount of compensation for the medical expenses from Rs.9,00,000/- to a wholly unsubstantiated figure of Rs.5,00,000/-, We, therefore, find and hold that on the Tribunal's own finding the appellant was entitled to a sum of Rs. 9,00,000/- towards his medical expenses added to the other amounts of compensation the sum of Rs.9,00,000/- would add up to Rs. 12,00,000/-, 60 per cent of which would be Rs. 7,20,000/-. We also find and hold that the appellant is entitled to the aforesaid sum of Rs.7,20,000/- by way of compensation, the additional amount with interest at the rate of 12 per cent from the date of the Tribunal's Award till the date of payment should be paid to the appellant within a period of two months from today.

In the result, the appeal is allowed to the extent indicated above but in the facts of the case, there will be no order as to costs.

.....J
[AFTAB ALAM]

.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI
SEPTEMBER 15, 2010.

