

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.1142 of 2005

JUDGMENT:

This appeal is filed by the claimant seeking enhancement of compensation granted to him in M.V.O.P.No.1024 of 2003, dated 30.03.2005, on the file of the Motor Vehicles Accidents Claims Tribunal at Narasaraopet.

The claimant filed the said petition claiming compensation of Rs.3,00,000/- on account of the injuries sustained by him in a road accident that occurred on 12.05.2000 when the lorry bearing No.AP 26 U 2778 came in a rash and negligent manner and hit the claimant when he was going along with his father-in-law on Dachepalli road for welding work. The Tribunal framed the issue with regard to rash and negligent driving of the driver of the lorry. With regard to the compensation, the Tribunal disbelieved the pleadings in the petition claiming that he was earning Rs.5,000/- per month by doing welding work, and fixed the annual income at Rs.10,000/-. Admittedly, the claimant was aged 24 years at the time of accident and multiplier of 17 was taken into consideration. Taking the disability of the claimant at 30%, the loss of earnings was arrived at Rs.51,000/-. Apart from the said loss of earnings, an amount of Rs.27,989/- was awarded towards medical expenses on the basis of the medical bills produced under Ex.A5. An amount of Rs.2,000/- was awarded towards expenses for attendant and special diet. Thus, in all an amount of Rs.80,989/- was awarded by the award dated 30.03.2005 along with interest at 9% per annum from the date of petition till the date of realization.

Learned Counsel for the appellant submits that the notional annual income taken by the Tribunal at Rs.10,000/- was grossly inadequate, even assuming that the claimant did not file any evidence to show his income. He also submits that though the Tribunal disbelieved the

evidence of the hospitalization of the claimant from 10.08.2000 to 09.11.2000 in a private nursing home, the loss of his earnings should have been taken into consideration apart from the expenses towards attendant and special diet.

Learned Counsel appearing for the Insurance Company contended that, in the absence of any evidence as to the earnings of the claimant, the amount of Rs.10,000/- fixed by the Tribunal was proper in the facts and circumstances of the case.

Though the accident occurred in the year 2000, it cannot be said that a worker, who is semiskilled, cannot earn less than Rs.100/- per day. Even assuming that he does not work on holidays, at least for 25 days he would be earning not less than Rs.2,500/- per month. When Rs.2,500/- is taken as the monthly income and multiplied by 12, it comes to Rs.30,000/-. There is no dispute with regard to the application of the multiplier and percentage of disability.

In the circumstances, the loss of earnings would come to Rs.1,53,000/-. There cannot be any interfere with the amount of Rs.27,989/- awarded towards medical expenses in view of Ex.A5. It is also admitted that the claimant was in Government Hospital from 12.05.2000 to 15.07.2000 for nearly two months, during which period he might have lost his earnings, and hence, an amount of Rs.5,000/- can be awarded for his loss of earnings during the period of hospitalization. Since the Tribunal has not awarded any amount towards pain and suffering, an amount of Rs.12,000/- can be awarded towards pain and suffering.

Thus, the total amount that can be awarded as just compensation would be as follows:

		<u>Rs.</u>
Loss of earnings and earning capacity of disability	-	1,53,000.00

Medical expenses rounded of	-	28,000.00
Loss of earnings during hospitalization	-	5,000.00
Attendant charges	-	2,000.00
Pain and suffering	-	12,000.00

Total	-	2,00,000.00
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In total the claimant is entitled for compensation of Rs.2,00,000/- (Rupees two lakhs only) with subsequent interest on the enhanced compensation @ 9% per annum from the date of the petition till the date of realization.

The appeal is, thus, partly allowed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

03.11.2015
vs