

THE HON'BLE SRI JUSTICE S.V.BHATT

M.A.C.M.A.No.2650 OF 2005

JUDGMENT:

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The petitioner in M.V.O.P.No.163 of 2003 in the Court of the Motor Accidents Claims Tribunal-cum-V-Additional District Judge, Tirupati (for short 'the Tribunal'), is the appellant herein.

The Tribunal through Award dated 22.07.2005 awarded a sum of Rs.36,000/- to the claimant as compensation. The present appeal is filed seeking enhancement of compensation.

It is the case of appellant that on 14.07.2002 at about 07.30 A.M., when the appellant was standing at the bus stop, a lorry bearing No.AP 12 U 1008, driven in a rash and negligent manner by its driver, came at high speed and hit the appellant. As a result of the said accident, the appellant, who is a minor, sustained multiple grievous injuries. Police Piler registered a case in Cr.No.95 of 2002. The appellant claims to have taken treatment in a SVRRGG Hospital, Tirupathi and incurred considerable amount towards medical expenses. The appellant was earning Rs.1,500/- per month doing tomato business at the time of accident.

Respondent No.1, owner of the lorry, was set *ex parte*. Respondent No.2/insurer filed counter opposing the claim and denying their liability to pay any compensation.

The Tribunal framed the following issues for decision:

- (i) Whether the pleaded accident resulting injuries to the minor petitioner was occurred due to rash and negligent driving of the lorry bearing No.AP 12U 1008?
- (ii) Whether the petitioner is entitled for compensation, if so, to what amount?

(iii) To what relief?

On behalf of appellant, her father as guardian, was examined as P.W.1 and marked Exs.A-1 to A-9. The doctor, who treated the appellant, was examined as P.W.2. No oral or documentary evidence was adduced on behalf of the insurer.

The Tribunal, on consideration of the evidence available on record, granted the compensation as follows:

	Pain and suffering	Rs. 8,000-00
	Medical expenses, extra nutrition and attendant charges	Rs. 25,000-00
	Transport charges	Rs. 1,000-00
	Loss of earnings	Rs. 2,000-00

	Total	Rs. 36,000-00

The learned counsel appearing for the appellant contends that the Tribunal failed to appreciate the documentary evidence available on record in determining compensation payable to appellant. The Tribunal granted a sum of Rs.8,000/- towards fracture of both bones of left leg and three simple injuries, which is too meagre, ignoring the fact that the appellant took treatment in Government Hospital at Tirupati for a considerable period.

The learned counsel for the 2nd respondent, on the other hand, would contend that in the absence of any evidence, justifying enhancement, the award passed by the Tribunal does not call for interference.

Now, the point for consideration is – whether the appellant/claimant is entitled for enhancement of compensation? If so, to what extent?

It is not in dispute that the accident occurred on account of the rash and negligent driving of the lorry by the driver.

I have perused Exs.A-2, A-3, A-6 to A-9. Ex.A-2 is the wound certificate, Ex.A-3 is the photographs, Ex.A-6 is the discharge summary, Ex.A-7 is the x-ray and Exs.A-8 and A-9 are case sheet of appellant and accident register of Government Hospital. Ex.A-7, the x-ray, shows that the appellant sustained fracture of both bones of left leg. The Tribunal granted a sum of Rs.8,000/- towards fracture of both bones of left leg which is too meager under the head pain and suffering. The compensation can be enhanced to Rs.25,000/- (Rs.20,000/- for grievous injuries and Rs.5,000/- for simple injuries). Likewise, the Tribunal granted a total compensation of Rs.25,000/- towards medical expenses, extra nourishment and attendant charges, owing to the fact that the appellant had taken treatment for a considerable period in the hospital and she must have necessarily incurred some amount in connection with treatment, extra nourishment etc. Hence, the compensation granted under the said head remains unchanged. The Tribunal awarded a sum of Rs.8,000/- under the head pain and suffering, which is on the lower side. The compensation is enhanced from Rs.8,000/- to Rs.10,000/-. The compensation granted by the Tribunal towards transport charges is enhanced from Rs.1,000/- to Rs.3,000/-. The Tribunal awarded an amount of Rs.2,000/- towards loss of earnings keeping in view the age of the minor (appellant) and the same is reasonable. The appellant/claimant is, therefore, held entitled for a total compensation of Rs.65,000/- with interest @ 7.5% per annum on the enhanced amount from the date of petition till deposit. The impugned award is modified accordingly.

The appeal is allowed-in-part. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

S.V.BHATT

13th November, 2015

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