

**IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE
OF ANDHRA PRADESH**

M.A.C.M.A.No.2678 of 2005

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Between :

C.Durgaiah S/o.late C.Mallaiah

... Petitioner

AND

Mohd. Sajeed and another

... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

M.A.C.M.A.No.2678 of 2005

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JUDGMENT :

The injured in a motor accident that occurred on 12.02.2002 filed O.P.No.924 of 2002 on the file of the Motor Vehicles Accidents Claims Tribunal-cum-V Additional Chief Judge, City Civil Court, Hyderabad, claiming compensation of Rs.2,00,000/- for the injuries sustained by him in the said accident.

2. The petitioner filed claim petition stating that on 12.02.2002 at about 1.30 p.m. while he was going on the scooter bearing No.ABD 4341 as a rider, a motor cycle bearing No.AP 37 6125 came in opposite direction and dashed the scooter, as a result of which, he fell down and

received injuries.

3. The owner of the motor cycle-1st respondent remained ex parte. The case was contested by the 2nd respondent-Insurance company.

4. On the basis of the pleadings, the following issues were framed by the Tribunal:

1. Whether the petitioner sustained injuries due to the rash and negligent driving of the offending vehicle by its driver?
2. Whether the petitioner is entitled for compensation, if so, to what amount and from whom?
3. To what other relief?

5. On behalf of the petitioner, PWs.1 and 2 are examined and Exs.A.1 to A.7 were marked. No oral evidence was adduced on behalf of the 2nd respondent, but Ex.B.1-copy of policy is marked.

6. On the basis of oral and documentary evidence, the Tribunal came to the conclusion that the said accident occurred due to rash and negligent driving of the driver of the motor cycle bearing No.AP 37 6125.

7. With regard to the compensation, the Tribunal awarded an amount of Rs.61,523/- for the injuries sustained by the petitioner and seeking enhancement of the said amount, the present appeal is filed.

8. The case of the petitioner is that he sustained one grievous injury and he joined Sri Sai Kidney Centre, Ameerpet, Hyderabad, where he took treatment from

12.02.2002 to 21.02.2002. The petitioner sustained fracture of occipital bone and he underwent surgery on 13.02.2002. PW.2, who is a Doctor in Sri Sai Kidney Centre, deposed that the petitioner sustained head injury on right side and Neuro Surgeon conducted operation. The Tribunal awarded an amount of Rs.10,000/- towards pain and suffering and nothing was awarded for the injury. Though the petitioner filed medical bill for an amount of Rs.45,139/- under Ex.A.4 and Rs.39,023/- under Ex.A.6, the Tribunal awarded an amount of Rs.10,000/- out of Rs.45,139/- in the absence of proper evidence. In view of the injuries sustained by the petitioner, an amount of Rs.10,000/- can be awarded for the injury. The other amounts do not need any enhancement. Accordingly, the awarded amount of Rs.61,523/- is enhanced to Rs.71,523/-. The enhanced amount shall carry the same rate of interest at 9% per annum.

9. The appeal is, accordingly, allowed in part.

10. Miscellaneous petitions pending, if any, shall stand closed. No costs.

A. RAMALINGESWARA RAO, J

16th December 2015.

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