

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
M.A.C.M.A. No.852 OF 2009

JUDGMENT:

1 Assailing the judgment and award dated 17.05.2005 passed in M.V.O.P.No.141 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional District Judge (FTC) Medak, the claimant filed the present appeal.

2 For the sake of convenience, parties to this appeal will hereinafter be referred as they are arrayed before the Tribunal.

3 The facts leading to filing of the present appeal, briefly, are as follows:

4 On 13.01.2001 at 10.30 AM the petitioner along with one Shafi Ahmed was proceeding to Patancheru from Sangareddy on his scooter. When they reached Kandi village, the driver of car bearing registration No.GAY 9996 drove it in a rash and negligent manner and hit against the scooter of the petitioner causing injuries to him. The accident occurred due to the rash and negligent driving of the driver of the car. In connection with the said accident, the Station House Officer, Sangareddy Rural police station registered a case in Cr.No.8 of 2001 against the driver of the car for the offence punishable under Section 337 IPC. In the said accident, the petitioner sustained injuries on various parts of the body and took treatment as inpatient in Government General Hospital, Sangareddy and also at CDR Hospitals, Hyderabad. By the date of accident, the petitioner was aged about 26 years and used to earn Rs.6,000/- p.m as reporter in Vaartha daily newspaper. The car which belongs to the first respondent was insured with the second respondent with effect from 12.10.2000 to 11.10.2001. Hence the petitioner filed the claim petition seeking compensation of Rs.1.00 lakh from the respondents.

5 First respondent remained ex parte. Second respondent filed counter denying the material averments inter *alia* contending that the accident occurred due to the rash and negligent driving of the scooter by

the petitioner and that there was no negligence on the part of the driver of the car. First respondent has not informed the factum of the accident to this respondent in collusion with the petitioner. The petitioner sustained simple injuries and the amount of compensation claimed by the petitioner under various heads is excessive and exorbitant. The driver of the car was not having valid and effective driving licence as on the date of accident. Therefore, this respondent is not liable to pay compensation to the petitioner. Hence the petition may be dismissed.

6 Basing on the above pleadings, the Tribunal framed the following issues for trial:

- i. Whether the pleaded accident took place due to the rash and negligent driving of the car bearing No.GAY 9996 by its driver and the claimant sustained injuries in the accident?
- ii. Whether the claimant is entitled for compensation if so at what Quantum and from whom?
- iii. To what relief?

7 During the course of trial, on behalf of the petitioner P.Ws.1 and 2 were examined and Exs.A.1 to A.5 were marked. On behalf of the 2nd respondent no oral evidence was adduced but copy of the insurance policy was marked as Ex.B.1.

8 Having appreciated the material available on record, the Tribunal arrived at a conclusion that the accident occurred due to the rash and negligent driving of the driver of the car and allowed the petition in part by awarding compensation of Rs.15,000/- with interest at 9% p.a from the date of filing of the petition till the date of realisation. Being dissatisfied with the said amount of compensation, the claimant filed the present appeal seeking higher compensation.

9 Sri S. Sudarshan, the learned counsel for the petitioner submitted that the Tribunal has not considered the medical bills filed by the petitioner. He further submitted that the amount of compensation awarded by the Tribunal under various heads is too meagre.

10 Per contra, Sri K.Madusudan Reddy, the learned standing counsel for the second respondent submitted that the petitioner sustained simple injuries and that the compensation awarded by the Tribunal is just and reasonable.

11 Now the point that falls for consideration in this appeal is:
“Whether the compensation awarded by the Tribunal is just and reasonable or not?”

Point:

12 Basing on the material available on record, the Tribunal held that the accident occurred due to the rash and negligent driving by the driver of the car bearing No.GAY 9996 which resulted injuries to the petitioner. Challenging the finding of the Tribunal so far as the factum of accident and the manner of accident, the second respondent has not filed any appeal or cross objections. Therefore, the finding recorded by the Tribunal that the accident occurred due to the rash and negligent driving of the driver of the car bearing No.GAY 9996 has become final. I am fully agreeing with the finding of the Tribunal on issue No.1 with regard to the manner of accident and sustaining of injuries by the petitioner.

13 A perusal of the record reveals that immediately after the accident, the petitioner was shifted to Government hospital Sangareddy. As per Ex.A.3-wound certificate, the petitioner sustained one simple injury. The Tribunal awarded an amount of Rs.10,000/- towards simple injury and Rs.2,000/- towards pain and suffering. In case of injuries, the Tribunal ought to have awarded the amount under the head ‘pain and suffering’ only. For one reason or the other, the Tribunal awarded compensation of Rs.12,000/- under two separate heads. Therefore, it should be construed that the Tribunal awarded an amount of Rs.12,000/- towards pain and suffering only.

14 As per the testimony of P.W.1, he spent an amount of Rs.29,000/- towards medicines and treatment. To substantiate the case, the petitioner examined P.W.2. As per the testimony of P.W.2, CDR Hospitals issued

Exs.A.4 and A.5. Ex.A.4 is the estimation bill for an amount of Rs.25,999/-. A perusal of Ex.A.5 clearly shows that CDR Hospitals received the amount directly from the insurance company. The fact remains that the petitioner did not spend even a single pie towards medicines and treatment. This aspect was considered by the Tribunal in right perspective.

15 The Tribunal awarded an amount of Rs.3,000/- towards loss of income to the petitioner. By the date of accident, the petitioner was working as reporter in Vaartha daily newspaper. Due to the head injury, he might not have attended to his work for a period of one month including the period of treatment i.e. 13 days. Hence I am inclined to award an amount of Rs.6,000/- towards loss of earnings instead of Rs.3,000/- as awarded by the Tribunal. I am also inclined to award an amount of Rs.2,000/- towards extra nourishment.

16 Thus, in all, the amount of compensation to which the petitioner is entitled, under various heads, is as follows:

<u>Pain and suffering:</u>	<u>Rs.12,000/-</u>
<u>Loss of earnings:</u>	<u>Rs.6,000/-</u>
<u>Extra nourishment:</u>	<u>Rs.2,000/-</u>
<u>=====</u>	
<u>Total:</u>	<u>Rs.20,000/-</u>
<u>=====</u>	

17 The amount of compensation awarded under various heads is just and reasonable to meet the ends of justice. The petitioner is also entitled for interest at 7.5% p.a. on the enhanced amount of compensation from the date of filing of the petition till the date of realisation. Since the car bearing No.GAY 9996 which belongs to the first respondent was validly insured with the second respondent by the date of accident, the respondent Nos.1 and 2 are jointly and severally liable to pay compensation to the petitioner.

18 In the result, the appeal is allowed in part, the amount

compensation awarded by the Tribunal is enhanced from Rs.15,000/- to Rs.20,000/- with interest at 9% p.a on Rs.15,000/- as awarded by the Tribunal and at 7.5% p.a. on the enhanced amount of compensation. Parties are directed to bear their costs in this appeal. The respondent Nos.1 and 2 are hereby directed to deposit the enhanced amount of compensation within two months from the date of receipt of this judgment together with interest at 7.5% p.a. from the date of filing of the petition till the date of realisation. As a sequel, miscellaneous petitions, pending in this miscellaneous appeal, if any, shall stand closed.

T.SUNIL CHOWDARY, J.

Date: February 24, 2015.

Kvsn