

HONOURABLE SRI JUSTICE S.V. BHATT

MACMA.No.1491 OF 2005

JUDGMENT:

The claimant in MVOP.No.1216 of 2002 in the Court of Motor Accidents Claims Tribunal -cum- II Additional District Judge, Warangal, is the appellant.

The appeal is filed for enhancement of compensation granted in MVOP. No.1216 of 2002.

Heard Sri A.Prabhakar Rao, learned counsel for appellant and Smt.M.Bhaskara Lakshmi, learned Standing Counsel for respondents 2 and 3.

The parties are referred as arrayed in the M.V.O.P.

The case of petitioner/claimant is that on 17/09/2002, the petitioner along with others was travelling in auto rickshaw bearing No. AP-36-V-4036 from Subedari towards Warangal and after crossing Citizens Club in Hanamakonda, the said auto dashed Hero Honda motor cycle bearing No.AP-36-F-474. The petitioner and other inmates of the auto suffered injuries. The auto is insured by 2nd respondent. The petitioner claimed Rs.1,50,000/- towards compensation for injuries sustained in the accident, pain, mental agony and expenditure incurred for purchase of medicines and transportation.

The 2nd respondent denied the liability in all fours. The 2nd respondent specifically joins issue on the injuries alleged to have been sustained by the petitioner. As the issue in the appeal relates to enhancement of compensation, I am not proposing to restate the case of the parties in great detail on the aspects not in dispute.

The Tribunal framed the following issues:

- i) whether the accident took place due to rash and negligent driving of the auto bearing No.AP-36-V-4036 by its driver ?
- ii) whether the petitioner is entitled for compensation? If so, what amount and from whom?
- iii) To what relief ?

On issue No.1, the Tribunal held that the accident occurred due to rash and negligent driving of driver of Auto bearing No.AP-36-V-4036. On issue No.2, the consideration is as follows:

The petitioner in O P. No. 1216 of 2002 is entitled for a reasonable sum of Rs.5,000/- towards loss of earnings, Rs.23,293/- towards purchase of medicines (covered by medical bills), Rs.2,000/- towards extra-nourishment and incidental charges and Rs.500/- towards transportation to hospital under the head of special damages. The petitioner is further entitled for a sum of Rs.15,000/- towards pain and suffering under the head of General damages. Hence, the appeal.

Learned counsel for the petitioner/appellant contends that the Tribunal did not give required weight to oral and documentary evidence produced by the petitioner. According to petitioner, Ex.A-4 and Ex.A-59 support the case of petitioner for grant of entire compensation and in the absence of proper cross-examination or any material available on record, the Tribunal ought to have granted compensation as prayed for.

On the other hand, learned Standing Counsel contends that the award of compensation is just and proper and no exception can be taken and she prays for dismissal of the appeal.

Now the point for consideration is “whether the petitioner/appellant is entitled for enhancement of compensation and if so, to what extent?”

The petitioner complains that in the accident dated 17/09/2002 she has suffered grievous injuries and was hospitalized. However, the Tribunal has generalized the injuries and granted compensation in a monotonous way.

I have perused Exs.A-4 and Ex.A-59. Prima facie, it appears that the petitioner sustained four grievous injuries and one simple injury. From the evidence available on record certainly it appears to this Court that the petitioner suffered for more period than what is accepted by the Tribunal for determining the compensation. No compensation is awarded for grievous or simple injuries. While accepting the reasoning and the quantum of compensation determined by the Tribunal, I am of the view that to constitute just and proper compensation, the petitioner is entitled to Rs.7,500/- towards four grievous injuries and one simple injury. Appeal is allowed to this limited extent. The compensation is enhanced from Rs.45,793/- to Rs.53,293/- . The petitioner is entitled to interest @ 7.5% p.a. on the enhanced compensation from the date of petition till the date of deposit.

The appeal is allowed in part. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V. BHATT,J

Date:03/12/2015
Stp