

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

TUESDAY THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE S.V. BHATT

MACMA.NO. 1575 OF 2005

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Between:

Gaddam Surender ... Appellant

V/s.

B. Punnam chand & Ors. ... Respondents

Counsel for the appellant : Sri A. Prabhakar Rao

Counsel for the Respondents: Smt.M. Bhaskara Lakshmi

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

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JUDGMENT :
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The claimant in MVOP.No. 1231 of 2002 in the Court of Motor Accident Claims Tribunal-cum-II-Additional District Judge, Warangal is the appellant.

2. For the sake of convenience, the parties will be referred to as they are arrayed in the Tribunal.

3. The appeal is filed for enhancement of compensation granted in MVOP.No. 1231 of 2002. Through the appeal, the petitioner prays for grant of further compensation of Rs.1,07,348/- for the Tribunal granted compensation at Rs.42,652/-.

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

5. On 17/9/2002, the petitioner was travelling in auto rickshaw bearing No. AP-36-V-4036 from Subedari towards Warangal. 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 second respondent. The petitioner claimed

Rs.1,50,000/- towards compensastion for injuries sustained in the accident, pain, mental agony and expenditure incurred for purchase of medicines and transportation.

6. The second respondent denied the liability in all fours.

The second respondent specifically joined issue on the injuries alleged to have been sustained by the appellant. As the issue in the appeal relates to enhancement of compensation, I am not proposing to state the case of the parties in great detail.

7. 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 petitioners are entitled for compensation? If so, what amount and from whom ?

iii) To what relief ?

8. On issue No.1, the Tribunal held that the accident is due to rash and negligent driving of the Auto bearing No.AP-36-V-4036.

On issue No.2, the consideration is as follows:

The petitioner in OP.No. 1231 of 2002 is entitled for a reasonable sum of Rs.3,000/- towards loss of earnings, Rs.27,652/- towards purchase of medicines (covered by medical bills) Rs.1,500/- towards extra-nourishment and incidental charges

and Rs.500/- towards transportation to hospital under the head of special damages. He is further entitled for a sum of Rs.10,000/- towards pain and suffering under the head of General damages.

Hence, the appeal.

9. Learned counsel for the appellant contends that the Tribunal did not give required weight to oral and documentary evidence produced by the petitioner. According to petitioner, Ex.A-69 and Ex.A-110 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.

10. 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.

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

12. The petitioner complains that in the accident dated 17/9/2002 he has suffered the following injuries:

“Fracture to right ½ fore arm, dislocation of left clavicle, closed head injury, grievous injury to left

leg and simple injuries to all over the body”

13. According to petitioner, he was hospitalized and the Tribunal has generalized the injuries and granted compensation in a monotonous way.

14. I have perused Ex.A-69, Ex.A-9 and Ex.A-110. Prima facie, it appears to me that the petitioner sustained three 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 or for pain and suffering. 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 three grievous and one simple injury. Appeal is allowed to this limited extent. The compensation is enhanced from Rs.42,652 to Rs.50,152/- . The appellant is entitled to interest @ 7.5% p.a. on the enhanced compensation from the date of petition till the date of deposit.

15. The appeal is allowed in part. No costs.

16. As a sequel, miscellaneous petitions if any, pending in this MACMA shall stand closed.

JUSTICE S.V. BHATT

03/11/2015
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HONOURABLE SRI JUSTICE S.V. BHATT

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