

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1980 of 2005

Date: 08-12-2015

Between:

Sreekala Madhukar

.... Appellant

AND

Y.S. Pratap Reddy and another

.... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1980 of 2005

ORDER:

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The petitioner in MVOP.No.690 of 2001 on the file of Motor Accident Claims Tribunal-cum-II Additional District Judge, Kadapa at Proddatur, is the appellant herein. He filed the O.P. claiming a compensation of Rs.5,00,000/- for the injuries sustained by him in a motor accident that occurred on 03-10-1999 at 5.30 P.M. in Proddatur. He was aged about 21 years and studying Engineering. On 03-10-1999, he was driving his scooter along with one V. Sagar as pillion rider and while they were returning from Sri Ayyappaswamy temple, Proddatur to their houses, the accident occurred due to rash and negligent driving of the tipper bearing No.AP-04-T-1516. The Tribunal framed the following issues:

- 1) Whether the petitioner received injuries in a motor vehicle accident that occurred on 03-10-1999 due to rash and negligent driving of tipper bearing No.AP-04-T-1516 by its driver belonging to the 1st respondent?
- 2) Whether the petitioner is entitled for compensation and if

so, to what amount and from whom?

3) To what relief?

The petitioner examined himself as PW.1 and the doctor was examined as PW.2, Exs.A.1 to A.8 were marked on behalf of the petitioner and no documents were marked on behalf of the respondents.

The Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the driver of the tipper bearing No.AP-04-T-1516.

With regard to the compensation, the Tribunal noticed that the following injuries were caused at the time of the accident.

- 1) compound fracture of right leg with two lacerated injuries of sizes 1 X 1 X 1cm in 2 X 1 X 1 over the front of right leg;
- 2) An abrasion of 3 cm X 1 ½cm over right leg. 8cm above (right ankle)
- 3) A lacerated and lateral to (Right) ankle"

In support of injuries, the petitioner filed Ex.A.2-wound certificate and also filed Ex.A.4-Disability Certificate. He filed Ex.A.5-medical bills for an amount of Rs.1,17,247.85ps. The Tribunal has taken into consideration 25% disability and taking the notional income as Rs.15,000/- and applying multiplier of 17, the Tribunal arrived at a compensation of Rs.63,750/- for the loss of earnings. An amount of Rs.1,000/- was awarded towards transport, Rs.3,000/- towards medicines and Rs.5,000/- towards pain and suffering. In all, an amount of Rs.72,750/- was awarded by the award dated 31-12-2004. Seeking enhancement of the said

amount, the present appeal is filed.

There is no dispute with regard to the injuries sustained by the petitioner and I have carefully gone through the Disability Certificate issued by the Medical Board. Though the disability certificate-Ex.A.4 stated 50% disability, the percentage of the disability was mentioned by the Orthopaedic Surgeon without any endorsement of the Chairman, who signed the certificate. Hence, I am of the opinion that 25% disability taken by the Tribunal is correct. However, it is not in dispute that the petitioner was an Engineering student and was aged about 21 years. The appropriate multiplier as per **Sarla Verma v. Delhi Transport Corporation** (2009 (6) SCC 121) is 18. The notional income of the petitioner should have been taken Rs.5,000/- per month. But, the Tribunal has taken only Rs.15,000/-p.a. In view of the same, the loss of income comes to Rs.2,70,000/- (5000 X 12 X 18 X 25%).

With regard to medical bills for an amount of Rs.1,17,247/-, the Tribunal did not give any finding except stating that the medical bills were not proved. The petitioner appears to have taken treatment for three months in Kadapa and one month at Hyderabad. In the circumstances, he must have spent some considerable amount towards treatment and an amount of Rs.20,000/- can be awarded towards medical expenses. The amount of Rs.5,000/- awarded towards pain and suffering is not proper and the same is enhanced to Rs.20,000/-. The amount of Rs.1,000/- towards transport charges is not disturbed. An amount of Rs.20,000/- was awarded towards injuries sustained by the petitioner in the accident. In all, the compensation of Rs.72,750/- is enhanced to Rs.3,30,000/- under the following heads:

<u>Heads</u>	<u>Award by Tribunal</u>	<u>Enhancement</u>
Loss of income	Rs. 63,750 /-	Rs.2,70,000/-
Medicines	Rs. 3,000/-	Rs. 20,000/-
Pain and suffering	Rs. 5,000/-	Rs. 20,000/-
Transportation	Rs. 1,000/-	Rs. 1,000/-
Injuries	-----	Rs. 20,000/-
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Total	Rs. 72,750/-	Rs.3,31,000/-
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In view of the above, the compensation of Rs.72,750/- awarded by the Tribunal by its award dated 31-12-2004 is enhanced to Rs.3,31,000/-. The enhanced amount of compensation shall carry the same rate of interest at 9% p.a. from the date of petition till the date of realisation and the enhanced amount shall be paid to the petitioner only after paying the deficit court fee.

The appeal is allowed accordingly to the extent indicated above. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 08-12-2015

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