

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.2081 of 2005
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JUDGMENT:

The petitioner in O.P. No.1462/2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Nizamabad, who was injured in a motor accident that occurred on 11.12.2000 at about 1.30 P.M. in the limits of Dharmaram Village on the road leading from Dichpally to Nizamabad, at a distance of 9 K.M., filed the claim petition for compensation of Rs.3,00,000/-.

The case of the injured was that immediately after the accident, he was taken to Pragathi Hospital, Nizamabad, where he was treated as inpatient from 11.12.2000 to 09.01.2001. He incurred more than Rs.1,00,000/- towards medical expenses and extra nourishment. The accident occurred due to the rash and negligent driving of the driver of Auto bearing registration No.AP-9-W-T-1062.

Before the Tribunal, the owner of Auto remained *ex parte* and the Insurance Company contested the case.

The Tribunal framed the following issues:

- 1) Whether the accident has taken place due to rash and negligent driving of the vehicle bearing No.AP-9-W-T-1062 by its driver?
- 2) Whether the petitioner is entitled for compensation. If so, to what just amount and against whom?
- 3) To what relief?

Before the Tribunal, the injured was examined as PW1 and one Dr. T.Narsing Rao was examined as PW2. Exhibits A1 to A9 were marked besides marking Ex.C1-Disability Certificate, issued by PW2. The policy of insurance was marked as Ex.B1.

The Tribunal, on the basis of evidence, held that the accident occurred due to rash and negligent driving of the driver of Auto bearing registration No.AP-9-W-T-1062.

The Tribunal awarded an amount of Rs.23,000/- for the injuries sustained by the petitioner in the accident, by its award dated 10.03.2005. Seeking enhancement of the said compensation, the present appeal is filed.

There is no dispute with regard to the injuries sustained by the petitioner, and as per Ex.A3-Wound Certificate, issued by the Government Hospital, the injuries are as follows:

- (i) Left foot crushed multiple fracture metatarsal skin loss 8" x 6" x 2" tenderness, grievous injury.
- (ii) Abrasion left knee 2" x 2".
- (iii) Abrasion right shoulder 3" x 4".
- (iv) Chest left contusion 1" x 2".
- (v) Large abrasion occipital region 4" x 6.

Though PW2 issued Disability Certificate stating that the petitioner sustained 50% disability, the same was disbelieved in view of the credibility of the said Doctor and non-filing of Disability Certificate from a competent Medical Board. However, in view of Ex.A3-Wound Certificate, there was a crush injury of left foot, which itself necessitate surgery and hospitalisation. The petitioner stated that he took treatment in Pragathi Hospital, Nizamabad, and he filed exhibits A5 to A7, issued by the said hospital. The Tribunal awarded an amount of Rs.5,000/- for the crush injury and Rs.4,000/- for the simple injuries. The amount of Rs.5,000/- for the crush injury is grossly inadequate and improper. In the circumstances, the amount of Rs.9,000/-, awarded for the injuries, is enhanced to Rs.50,000/-. The Tribunal already awarded Rs.5,500/- towards medical bills and it needs no interference. The amount of Rs.5,000/- towards pain and suffering, awarded by the Tribunal, is enhanced to Rs.10,000/-. The amount of Rs.2,000/- awarded towards transportation and extra

nourishment is retained. The amount of Rs.1,500/- towards loss of income is enhanced to Rs.3,000/-. Thus, in all, an amount of Rs.70,500/- (Rupees seventy thousand and five hundred only) is awarded in place of Rs.23,000/-, awarded by the Tribunal. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of petition till the date of realisation.

Accordingly, this Appeal is partly allowed by enhancing compensation from Rs.23,000/- to Rs.70,500/-. No order as to costs.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

14.12.2015

MVA