

HONOURABLE SRI JUSTICE S.V.BHATT

M.A.C.M.A. No. 1422 OF 2005

DATED 4TH December, 2015

BETWEEN

Vadlamudi Venkateswarlu

...Appellant

And

Shaik Mastan and anr

...Respondents.

HONOURABLE SRI JUSTICE S.V.BHATT

M.A.C.M.A.No. 1422 OF 2005

JUDGMENT:

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The claimant in MVOP.No.1186 of 1999 in the Court of the Motor Vehicle Accident Claims Tribunal-cum-District Judge, Guntur is the appellant. The appeal is filed for enhancement of compensation awarded by the Tribunal. The Tribunal in Paragraph 26 of the award has summarized the compensation payable to the appellant as follows:

“ Having regard to the age of the petitioner, I feel a lumpsum amount of Rs.20,000/- atleast can be granted to compensate the loss occasioned by 25% disability. Thus the amount that can be awarded towards pecuniary damages comes to :--

Amount incurred towards hospital
expenditure including medical bills
Rs.25,000.00

Towards transport charges, extra nourishment and for having an attendant	Rs. 3,000.00
Towards loss of earnings	Rs. 3,000.00
Loss of earnings on account of partial permanent disability	Rs. 20,000.00

Total	Rs.
51,000.00	

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Hence, the appeal.

The circumstances relevant for disposal of the appeal are briefly stated: The appellant filed MVOP.No.1186 of 1999 claiming a sum of Rs.2,00,000/- as compensation for the injuries suffered by him in the accident occurred on 14.11.1999 at about 12 noon near Padmaja Petrol Bunk on Vijayawada-Guntur road. According to the appellant, the accident is due to the rash and negligent driving of the vehicle bearing Registration No.APG.3596. At the time of accident the appellant was studying intermediate. From the material available on record and also on account of the finding recorded by the Tribunal, the appellant was hospitalized in all for 45 days for orthopedic surgery in the Peoples Trauma and Emergency Hospital, Guntur. The deformity admittedly suffered by the appellant is femur bone fracture and the appellant is suffering 30% partial permanent disability and there is restriction of movement and shortening of right lower limb by more than 2”. For these

accepted grievous injuries, the appellant claimed Rs.2,00,000/- compensation from the respondents.

The second respondent filed a counter affidavit. Apart from generally denying the liability of payment of compensation, the plea taken by the second respondent is that the claim of Rs.2,00,000/- for the injuries suffered by the appellant is excessive.

The Tribunal has framed the following issues for consideration.

1. Whether the petitioner sustained injuries in the accident due to rash and negligent driving of the Lorry No.APG-3596 by its driver ?
2. To what compensation amount the petitioner is entitled to and against whom ?
3. To what order ?

The appellant examined himself as P.W.1 and Dr. Y.Lakshmana Swamy as P.W.2. Dr. Y.Lakshmana Swamy is the Orthopedic Surgeon who treated the appellant for the grievous injuries he has suffered in the accident dated 14.11.1999. The appellant has marked Exs.A1 to A7. For the purpose of disposal of the appeal, I deem it sufficient to refer Exs.A.3, A6 and A7. The Tribunal granted Rs.25,000/- towards medical expenses including the medical bills. The Tribunal has determined the loss of earnings on account of partial permanent disability at Rs.20,000/-. Hence the appeal.

The learned Counsel for appellant contends that the

injuries suffered by the appellant are very grievous and the appellant is handicapped from pursuing all options in employment on account of partial permanent disability and according to him, the Tribunal has not granted any amount towards the injuries suffered by the appellant. The learned Counsel for the appellant placing reliance on Ex.A.4 contends that the consolidated amount of Rs.25,000/- granted by the Tribunal towards hospital expenses including the medical bills is on the lower side and the same is required to be enhanced to Rs.72,234/-.

On the other hand, the learned Counsel for the respondent contends that the appellant did not prove Ex.A.4. P.W.2 in his evidence did not advert to the amounts spent by the appellant at Peoples Trauma and Emergency Hospital. According to the learned Standing Counsel, the compensation granted by the Tribunal is just and proper and the same does not warrant interference by this Court for enhancement.

Now the point for consideration is, whether the appellant is entitled for enhancement of compensation, if so, to what extent.

The admitted circumstances are that the appellant suffered injuries in the accident dated 14.11.1999. At the time of accident, the appellant was a student and has bright future. The appellant has undergone the treatment in the hospital for 11/2 month. The appellant had also undergone operation in two different spells for fracture of femur bone and for shortening of right lower limb by more than 2". The accident as held by the Tribunal on Issue No.1 is due to the rash and negligent driving

of the vehicle bearing registration No.APG-3596. The Tribunal in my considered opinion has considered the sums payable towards hospital expenses including the medical bills, transport charges and extra-nourishment. But the Tribunal has not granted any compensation for the grievous injuries of fracture of femur bone and shortening of right lower limb by more than 2". Further the loss of earnings on account of 30% of partial permanent disability is having affect on the bright future of the appellant. Having regard to the circumstances, namely that, the appellant was a student at the time of accident and grievous injuries resulted in partial permanent disability at 30% due to shortening of right lower limb more than 2" and the bright future, I am satisfied that the compensation payable under the loss of earnings on account of partial permanent disability ought to be enhanced from Rs.20,000/- to Rs.50,000/-. Accordingly the compensation as determined by the Tribunal is determined and enhanced as below.

Amount incurred towards to hospital
expenditure including medical bills
Rs.25,000.00

Towards transport charges, extra nourishment and for having an attendant	Rs.
3,000.00	

Towards loss of earnings	Rs.
3,000.00	

Loss of earnings on account of partial permanent disability	Rs.
50,000.00	

	Total	Rs.
81,000.00		-----
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The appellant is entitled to interest at 7.5% per annum on the enhanced compensation from the date of the petition till realization.

The appeal is allowed in part to the extent indicated above. Miscellaneous petitions pending consideration if any in the appeal shall stand closed in consequence. No order as to costs.

JUSTICE S.V. BHATT

DATED 4TH December, 2015 .
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