

HON'BLE SRI JUSTICE S.V. BHATT
M.A.C.M.A. No.1443 OF 2005

JUDGEMENT:

The claimant in O.P. No.656 of 2004 (old O.P.No.1380 of 2002) in the Court of Motor Accidents Claims Tribunal-cum- II Additional District Judge, Nalgonda at Suryapet, is the appellant.

Heard learned counsel appearing for the appellant and the 2nd respondent-insurance company.

At the time of hearing, both the learned counsel inform the Court that no appeal challenging the award is filed by the insurance company.

The facts relevant for disposal of the appeal are as follows:

The appellant was working as cleaner of lorry bearing No.AP-13- U-3249, and on 25.10.2002, the lorry loaded with gas cylinders, was going to Vijayawada. At 6.00 p.m. when the lorry reached near S.V. College, Suryapet on NH.9, another lorry bearing No.AP-4- U-1499 came from opposite direction at high speed in a rash and negligent manner and dashed against the lorry loaded with gas cylinders, resultantly, the appellant sustained fracture injury to left leg and also injuries on other parts of the body. The appellant was shifted to Government Civil Hospital, Suryapet for treatment and he also undergone treatment at private hospital. The appellant claimed compensation of Rs.75,000/-.

The 2nd respondent-insurance company denied the allegations made in the claim petition.

Based on the pleadings, the following issues were framed by the Tribunal:

- i. Whether the accident occurred resulting in injuries to the claimant, and if so, whether it was due to the fault of the driver of the lorry bearing No.A.P-4-U-1499?
- ii. Whether the lorry bearing No.AP-4-U-1499 belongs to R-1 and stood insured with R-2 on the date of the accident, and if so, whether the policy covers the risk of the claimant?
- iii. Whether the claimant is in principle entitled to any compensation, and if so, to what amount and from which of the respondents?
- iv. To what relief?

Having regard to the facts and circumstances of the case and the material available on record, the Tribunal decided the issues 1 and 2 in favour of the appellant. As regards issue No.3, the Tribunal awarded Rs.5,000/- towards pain and suffering and Rs.4,500/- towards loss of income during the bed ridden period. Thus, the Tribunal determined the total compensation of Rs.9,500/-.

The learned counsel for the appellant contends that the Tribunal has failed to appreciate the evidence on record in right perspective and awarded meagre amount of compensation.

I have taken note of the submissions of learned counsel appearing for the parties and perused the material available on record.

The Tribunal decided all the issues in favour of appellant in determining the compensation. However, the Tribunal has taken a conservative view in awarding compensation under the head of pain and suffering. After perusing Ex.A.2, I am of the considered view that award of Rs.5,000/- for pain and suffering is erroneous when the appellant suffered grievous injury to left leg and injuries on other parts of body. The award of Rs.5,000/- towards pain and suffering is modified and enhanced to Rs.25,000/- which is just and proper. Except enhancement towards pain and suffering, the rest of compensation determined by the Tribunal is confirmed. Therefore, the total compensation is determined at Rs.29,500/- (Rupees Twenty Nine Thousand Five Hundred only) (i e., Rs.25,000/- towards pain and suffering and Rs.4,500/- towards loss of income) with interest at 7.5% per annum from the date of the petition till the date of deposit in Court.

The appeal is allowed in part. No order as to costs.

Miscellaneous petitions, if any, pending in the MACMA shall stand closed.

S.V.BHATT, J

Date: 03.12.2015

Stp