

THE HON'BLE SRI JUSTICE S.V.BHATT

M.A.C.M.A.No.1837 OF 2005

JUDGMENT:

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The claimant in M.V.O.P.No.137 of 2000 in the Court of the Motor Accidents Claims Tribunal-cum-II-Additional District Judge (Fast Track Court), Srikakulam (for short 'the Tribunal'), is the appellant herein. The appeal is directed against the Award dated 13.05.2005 in M.V.O.P.No.137 of 2000.

The claimant, in all, claimed Rs.1 lakh towards compensation for the injuries sustained by him in a motor vehicle accident that occurred on 08.04.1999 at 05.30 PM at Haripuram Junction.

The Tribunal awarded total compensation of Rs.13,000/- under different heads.

According to the claimant, on the fateful day, while he was standing at Haripuram Junction to go to his village, a car bearing No.AP 9L 444, driven in a rash and negligent manner at high speed, came from Itchapuram side and hit the claimant. As a result of which, the claimant sustained multiple injuries, including fracture to his right leg. The vehicle ran away without stopping. The claimant was admitted in Palasa Government Hospital for treatment and later in a private hospital at Mandasa. A case in Cr.No.36 of 1999 was registered by Police Mandasa and later the police filed charge sheet in C.C.No.85 of 1999 showing the 1st respondent as driver and 2nd respondent as owner of the vehicle. The vehicle was insured with the 3rd respondent insurer.

The claimant, in all, claimed a sum of Rs.65,000/- towards loss of income and loss of future income on account of disability, Rs.20,000/- in all towards medical expenses, Rs.5,000/- towards travelling and extra nourishment charges and Rs.10,000/- towards mental agony and pain and suffering.

The 3rd respondent/insurer filed a counter opposing the claim and denying their liability to pay any compensation.

Based on the above pleadings, the Tribunal settled the following issues:

- i. Whether the accident occurred due to the rash and negligent driving of the car by the 1st respondent?
- ii. Whether the petitioner is entitled to recover the compensation and, if so, what amount of compensation and from which of the respondents?
- iii. To what relief?

During enquiry, P.Ws.1 to 3 were examined and Exs.A-1 to A-30 were marked on behalf of the claimant. No oral or documentary evidence was adduced on behalf of the respondent-insurer.

On a consideration of the evidence available on record, the Tribunal held that it is not possible to hold that the claimant could establish the negligence on the part of the driver of the vehicle as required and accordingly answered the issue against the claimant. Accordingly, the Tribunal awarded a total compensation of Rs.13,000/- i.e., Rs.10,000/- towards pain and suffering (Rs.5,000/- for grievous injury and Rs.1,000/- each for five simple injuries) and Rs.3,000/- towards incidental expenses and dismissed the petition. Aggrieved by the same, the claimant filed the present appeal seeking enhancement of compensation.

The learned counsel for the appellant would contend that the total amount granted by the Tribunal in a sum of Rs.13,000/- is too meagre, having regard to the fact that the claimant sustained one grievous injury and five simple injuries and undertook treatment in a private hospital. The learned counsel for the 3rd respondent, on the other hand, would contend that in the absence of any evidence, justifying enhancement, the award passed by the Tribunal does not call for interference.

I have perused Exs.A-5 to A-27 medical prescriptions and other medical bills, Ex.A-28, receipt issued by the doctor (P.W3) for Rs.35,000/-, Ex.A-29, certificate showing that the claimant underwent treatment between 08.04.1999 and 10.07.1999 in a private hospital, and Ex.A-30 x-ray taken by the claimant. Be that as it may, having regard to the fact that the claimant is illiterate and is seeking compensation invoking the provisions of a beneficial piece of legislation and the provisions relating to payment of compensation are having purpose and objective of providing succour and support to innocent victims of the accident and also having regard to the fact that the claimant sustained six injuries, both grievous and simple, he must have necessarily incurred expenditure in connection with the treatment and also for extra nourishment. Under those circumstances, it is considered that an amount of Rs.10,000/- towards pain and suffering can be granted.

The Tribunal granted Rs.1,000/- each for five simple injuries and Rs.5,000/- towards one grievous injury which is rather meagre.

An amount of Rs.12,500/- (Rs.2,500/- each for five injuries) and Rs.12,500/- for grievous injury can be granted. The Tribunal granted Rs.3,000/- towards incidental expenses and the same is confirmed. The claimant is, therefore, held entitled for a total compensation of Rs.38,000/- with interest @ 7.5% per annum on the enhanced amount from the date of petition till deposit. The impugned award is modified accordingly.

The civil miscellaneous appeal is allowed-in-part to the extent stated above. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

S.V.BHATT

09th November, 2015

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