

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1919 of 2005

Date: 03-12-2015

Between:

Alladi Bharathi

.... Appellant

AND

M. Nityanandam and another

.... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

MACMANo.1919 of 2005

ORDER:

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The claimant in MVOP.No.150 of 2000 on the file of Motor Accident Claims Tribunal-cum-VI Additional Metropolitan Sessions Judge-cum-XX Additional Chief Judge, Hyderabad at Secunderabad is the appellant herein.

The appellant filed the above MVOP claiming compensation of Rs.2,20,000/- on the allegation that on 16-07-1998 when the claimant was proceeding by Tata Mobile bearing No.AP-10K-101 along with others, the driver of the lorry bearing No.TDX-3389 drove it in a rash and negligent manner and hit the said Tata Mobile wherein the claimant and others were travelling. In the said accident, the claimant suffered multiple grievous injuries and she was shifted to Yashoda

Hospital where she took treatment from 16-07-1998 to 29-07-1998, 11-08-1998 to 12-08-1998, 28-08-1998 to 04-09-1998 and on 23-11-1998. The claimant was aged about 53 years and was a house wife. The Tribunal framed the following issues:

1. Whether the accident has taken place due to rash and negligent driving of the vehicle bearing No.TDX 3389 by its driver?
2. What is the just amount that can be awarded as compensation and against whom?
3. To what relief?

On the basis of oral and documentary evidence, the Tribunal held that the accident occurred due to rash and negligent driving of the lorry by its driver.

With regard to quantum of compensation, the Tribunal noticed that Ex.A.5 report disclosed that the claimant suffered commuted fracture of lower end of right femur with internal fixation and evidence of fracture of lower shaft of femur with metallic device in situ and that knee joint grossly appear normal. No doctor was examined in support of her case. Exs.A.1 to A.7 were marked on behalf of her and the insurance policy was marked as Ex.B.1. None were examined in support of medical bills. The Tribunal awarded an amount of Rs.20,000/- towards pain and suffering, Rs.60,000/- towards medical expenses, Rs.4,000/- towards extra nourishment and Rs.1,000/- towards transportation charges. In all, the Tribunal awarded an amount of Rs.85,000/- by the award dated 04-01-2005 together with interest there on at 6% p.a. from the date of petition till the date of deposit.

There is no dispute with regard to the injuries sustained by the appellant and her taking treatment in Yashodha Multi Speciality Hospital. She was not awarded any amount of compensation towards loss of earnings though she was a house wife. But the decision of the Supreme Court state that even a house wife is also entitled for notional income and in this case, in view of her hospitalization, she can be awarded an amount of Rs.15,000/-. Though she suffered fractures, she was not awarded any amount towards injury. In the

circumstances, an amount of Rs.20,000/- can be awarded to the injuries.

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Heads Award of Tribunal Enhancement

Pain and Suffering Rs. 20,000/- Rs. 20,000/-

Medical expenses Rs. 60,000/- Rs. 60,000/-

Extra nourishment Rs. 4,000/- Rs. 4,000/-

Transportation charges Rs. 1,000/- Rs. 1,000/-

Loss of income during

Hospitalization ----- Rs. 15,000/-

Injuries ----- Rs. 20,000/-

Total Rs. 85,000/- Rs.1,20,000/-

(Enhancement = Rs.85,000/- + Rs.35,000/- = Rs.1,20,000/-)

Under the above two heads, the amount of award of Rs.85,000/- awarded by the Tribunal is enhanced by Rs.35,000/-, which comes to Rs.1,20,000/- and the enhanced amount shall carry interest at 6% p.a. as awarded by the Tribunal on the original amount.

Accordingly, the appeal is allowed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.

RAMALINGESWARA RAO, J

Date: 03-12-2015

