

THE HON'BLE SRI JUSTICE S.V.BHATT

M.A.C.M.A.No.2469 OF 2005

JUDGMENT:

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Heard Sri C.Vikram Chandra, learned for the appellant and learned Standing Counsel for respondent No.2.

The claim petitioner in O.P.No.159 of 2002 in the Court of the Motor Accidents Claims Tribunal-cum-X Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad (for short 'the Tribunal'), is the appellant herein.

The appeal is filed for enhancement of compensation.

The Tribunal through award dated 01.10.2004 granted a sum of Rs.20,000/- to the claimant as compensation. Aggrieved by the said determination of compensation by the Tribunal, the present appeal is filed.

It is the case of appellant that on 18.07.2001 about 04.00 P.M., the appellant was going by foot after attending labour work and when she reached near Raipole Village and was standing on the left side of Ibrahimpatnam, one Hero Honda vehicle bearing

No.AP 28 AA 4666, driven in a rash and negligent manner, came at high speed and hit the appellant. The appellant sustained fracture of both bones of left leg, besides other grievous injuries. The appellant claims to have taken treatment in a private hospital and incurred Rs.5000/- towards medical expenses.

Respondent No.1 was set *ex parte*. Respondent No.2 filed counter opposing the claim and denying their liability to pay the compensation.

The Tribunal framed the following issues for decision:

- i. Whether the petitioner received injuries in the accident on account of rash and negligent driving of the Hero Honda bearing No.AP 28 AA 4666 by its driver?
- ii. Whether the petitioner is entitled for compensation, if so, to what amount and from whom?

iii. To what relief?

The appellant examined herself as P.W.1 and marked Exs.A-1 to A-5. No oral evidence was adduced on behalf of the insurance company, but Ex.B-1 copy of insurance policy was marked.

The Tribunal granted the compensation as follows:

Fracture of both bones of left leg Rs.12,000-00

Medical expenses & extra

Nourishment Rs. 4,000-00 Pain and suffering Rs. 4,000-00

Total Rs. 20,000-00

The learned counsel appearing for the appellant contends that the Tribunal failed to appreciate Exs.A-3 and A-4 issued by the hospital in arriving at compensation as prayed for. The Tribunal granted a sum of Rs.12,000/- towards fracture of both bones of left leg, which is too meager, ignoring the fact that the appellant took treatment in Ankit Multi Specialty Hospital. The learned counsel for the 2nd 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.

Now, the point for consideration is – whether the claimant is entitled for enhancement of compensation? If so, to what extent?

I have perused Ex.A-3 CC of MLC and also Ex.A-4 discharge summary of Osmania General Hospital. Ex.A-4 shows that the claimant sustained fracture of both bones of left leg. Ex.A-5 X-ray also shows that the claimant sustained fracture of both bones of left leg. The Tribunal granted a sum of Rs.12,000/- towards fracture of both bones of left leg which is too meagre. The compensation can be enhanced to Rs.24,000/-. Likewise, the Tribunal granted a compensation of Rs.4,000/- towards medical

expenses and extra nourishment. The claimant claims to have taken treatment in a private hospital after the accident and must have necessarily incurred some amount in connection with treatment, extra nourishment etc. Hence, the same is enhanced to Rs.7,000/- . The Tribunal awarded a sum of Rs.4,000/- under the head pain and suffering, which is on the lower side. The same is enhanced to Rs.11,000/-. The claimant is, therefore, held entitled for a total compensation of Rs.42,000/- with interest @ 7.5% per annum on the enhanced amount from the date of petition till deposit.

The impugned award is modified accordingly.

The appeal is allowed-in-part. There shall be no order as to costs.

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

S.V.BHATT

09th November, 2015

Lrkm