

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

M.A.C.M.A. No.2310 OF 2009

JUDGMENT:

This appeal is filed by the appellant-claimant aggrieved by the Award and Decree dated 03.04.2008 passed in O.P.No.1561 of 2005 by the IV Additional Metropolitan Sessions Judge-cum-XVIII Additional Chief Judge, Hyderabad (for short, the trial Court).

2. The brief facts of the case are that on 08.02.2005 at about 11.30 A.M., while the appellant was standing in front of his shop at DMRL X roads, a lorry bearing No.AP11W 6226 came and unloaded the bricks at their shop and after filling up the tank with oil, driver of the lorry started the same all of a sudden and dashed the appellant. The appellant fell down and sustained grievous injuries. He filed aforesaid OP against respondents Nos.1 and 2, owner and insurer of the lorry, respectively, claiming compensation of Rs.2,00,000/- for the injuries sustained by him.

3. Before the trial Court, respondent No.1 remained *ex parte*. Respondent No.2 filed its counter denying the averments of the claim petition and contended that the amount claimed is excessive and prayed to dismiss the claim petition.

4. After considering the oral and documentary evidence on record, the trial Court came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the lorry and awarded compensation of Rs.1,20,000/- with interest @ 7.5% per annum, i.e., Rs.50,000/- towards medical expenses,

Rs.10,000/- towards removal of implants, Rs.5,000/- towards extra nourishment, Rs.15,000/- towards pain and suffering, Rs.36,000/- towards loss of earnings and Rs.4,000/- towards transport expenses. As the driver of the lorry did not possess valid driving license, the trial Court directed respondent No.2 to pay the compensation amount at first and recover the same from respondent No.1 thereafter. Dissatisfied with the quantum of compensation, the appellant filed the present appeal, seeking enhancement of the same.

5. Smt.B.Roja Ramani, learned counsel appearing for the appellant, submitted that though the appellant produced medical bills for Rs.68,562/-, the trial Court awarded meager amount of Rs.50,000/-. She further submitted that the trial Court also granted meager amount for removal of implants and pain and suffering and she seeks to enhance the compensation amount.

6. Sri N.S.Bhaskar Rao, learned Standing Counsel for respondent No.2, submitted that the trial Court passed a well reasoned order and sought to dismiss the appeal.

7. As against the claim of Rs.68,562/- towards medical expenses, the trial Court has awarded Rs.50,000/- only. As the appellant filed bunch of medical bills (Ex.A.6) to show that he spent a sum of Rs.68,562/- towards medical expenses, the same has to be allowed and the same is awarded. Insofar as granting of Rs.10,000/- towards removal implants is concerned, P.W.2, the

Doctor, who treated the injured, deposed that the second surgery for removal of implants would cost Rs.15,000/- to Rs.20,000/- and therefore, I am inclined to enhance another sum of Rs.10,000/- (total Rs.20,000/-) towards removal of implants. With regard to pain and suffering, the trial Court granted an amount of Rs.15,000/- and the same is enhanced to Rs.25,000/-. The appellant is also entitled for an amount of Rs.25,000/- for fracture of left tibia. The other findings of the trial Court remain unchanged. Thus, the total compensation under various heads comes as under:-

Sl.No.	Name of Head	Awarded by trial Court	Awarded by this Court
01.	Medical expenses	Rs.50,000/-	Rs.68,562/-
02.	Removal of implants	Rs.10,000/-	Rs.20,000/-
03.	Extra nourishment	Rs.5,000/-	Rs.5,000/-
04.	Pain and suffering	Rs.15,000/-	Rs.25,000/-
05.	Loss of earnings	Rs.36,000/-	Rs.36,000/-
06.	Transportation charges	Rs.4,000/-	Rs.4,000/-
07.	Fracture	--	Rs.25,000/-
	Total	Rs.1,20,000/-	1,83,562/-

8. In the result, the Motor Accident Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the trial Court from Rs.1,20,000/- to Rs.1,83,562/-. The enhanced amount shall carry interest @ 7.5% per annum. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 16.07.2019
TJMR