

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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M.A.C.M.A.No.2707 of 2015

Between:

Syed Nizamuddin

....Appellant

and

Hiralal Bhagwan and another.

....Respondents

JUDGMENT PRONOUNCED ON : 01.12.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?

2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to : No

see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.2707 of 2015

JUDGMENT:

This appeal is preferred by the claimant seeking enhancement of compensation awarded in O.P.No.751 of 1996 by the Motor Accident Claims Tribunal (Additional District Judge), Nizamabad, by award dated 28.12.2001.

The case of the claimant is that he was a labourer earning Rs.3,000/- per month. On 11.07.1996 while he was traveling from Banswada towards Maqdoompur side in a trolley bearing No.AP 25T 863 attached to a tractor bearing No.AP 25T 862, at about 3.30 pm when he reached at Bejgam Anjaiah Rice Mill on Banswada to Nizamabad road, a lorry bearing No.MHL 7157 came from opposite side on wrong side with high speed in a rash and negligent manner driven by its driver and hit the tractor and trolley, as a result of which the tractor and trolley turned turtle, the claimant came under trolley and received fracture to his right hand, injuries to his legs, head and other parts of his body. He was admitted in Government Hospital, Banswada and thereafter shifted to Government Head Quarters Hospital, Nizamabad, and was still taking treatment in a private hospital and spent an amount of Rs.40,000/- towards purchase of medicines and for extra nourishment. Hence, he filed the claim petition claiming a compensation of Rs.1,20,000/-.

The Tribunal framed the following issues:

- “1 .Whether the accident was occurred due to rash and negligent driving of the lorry bearing No.MHL 7157 by its driver?
2. Whether the petitioner is entitled for compensation. If so to what amount and against which of the respondents?

3. To what relief?"

The claimant examined P.Ws.1 to 3 and marked Exs.A1 to A4. On behalf of the respondents, no oral or documentary evidence was adduced.

With regard to the first issue the Tribunal held that the accident occurred due to rash and negligent driving of the lorry bearing No.MHL 7157 by its driver.

As per Ex.A2 – wound certificate, the claimant suffered pains, swelling and tenderness measuring 6 cms X 2 cms on the lower forearm and head of right side and the X-ray showed that right lower end radius was fractured. The claimant was referred to District Head Quarters Hospital, Nizamabad, by Orthopedic Surgeon. As the same was supported by the medical evidence of P.W.2, the Tribunal awarded a sum of Rs.60,000/- as compensation for fracture injury on vital parts of the body with 20% to 25% permanent partial disability. The claimant stated that he spent an amount of Rs.40,000/- towards purchase of medicines but did not file any medical bills. Therefore, the Tribunal awarded Rs.5,000/- towards medicines. An amount of Rs.3,000/- was awarded for pain and suffering and Rs.3,000/- for conveyance and extra nourishment. In all, an amount of Rs.71,000/- was awarded as compensation to the claimant.

The claimant was initially admitted in Government Hospital, Banswada where he was an in patient for two days and thereafter he was referred to Government Head Quarters Hospital, Nizamabad, where he remained there for two days. Except the opinion of P.W.3 Doctor who attended on the claimant initially, there is no acceptable evidence to show that the claimant suffered 20% to 25% disability. No copy of the case sheet was filed. There is no evidence of any surgery.

I have carefully perused the award passed by the Tribunal and keeping in view the nature of injuries and the date of accident, the award of the Tribunal is

found to be just and proper.

In the circumstances of the case, the award of the Tribunal does not warrant any enhancement and the appeal is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

01.12.2015

vs

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