

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No.817 OF 2006

JUDGMENT:

This appeal is arising out of the order, dated 19.10.2005, in M.V.O.P.No.1988 of 2001 on the file the Motor Accidents Claims Tribunal-cum-VII Additional District Judge (Fast Track Court), Nizamabad at Bodhan (for short, 'the Tribunal').

2. The appellant herein is the injured in the motor vehicle accident occurred on 24.10.2001 at about 2.30 pm while she was traveling in a jeep bearing No.AP25F 1230 along with other passengers. When the jeep reached Mallaram Gandhi on Varni Nizamabad road, the driver of the jeep had driven the jeep in a rash and negligent manner and lost control over the jeep, as a result of which, the jeep had turned turtle and the appellant and others received injuries in the said accident. The appellant has claimed a compensation of Rs.2 lakhs on account of injuries received by her in the said motor vehicle accident.

3. The Tribunal, on consideration of evidence, has awarded compensation of Rs.19,000/-. Feeling aggrieved by the quantum of compensation, this appeal has been preferred.

4. Heard Sri P.Radhive Reddy, learned counsel for the appellant. Learned counsel for respondent No.2 New India Assurance Company Limited is not present today. However,

his arguments are deemed to have heard. The appeal against respondent No.1 herein was dismissed for default *vide* Court order dated 27.04.2016.

5. Learned counsel for the appellant submits that the appellant had undergone skin grafting and she has suffered restricted movement of ankle and she was treated as in-patient for two months in the hospital. He further submits that without considering all these aspects, the Tribunal has awarded a very meager amount for the treatment and injuries suffered by the appellant. He further submits that the appellant was a labourer by profession and her income was Rs.200/- per day and she had suffered loss of earnings for two months as she was hospitalized. The Tribunal has granted only Rs.4,000/- towards loss of earnings, Rs.10,000/- towards grievous injury, Rs.2,000/- towards simple injury and Rs.3,000/- towards pain and suffering. He further submitted that though the appellant stated that she was a daily labourer and her income was Rs.200/- per day, the Tribunal has not taken into consideration that aspect and awarded a meager amount of Rs.4,000/- towards loss of earning instead of Rs.12,000/-. Therefore, learned counsel for the appellant sought for enhancement of compensation.

6. The point for consideration in the matter is whether the Tribunal has awarded just compensation?

7. **POINT:** The brief facts of the case are that on 24.10.2001 at about 2.30 pm while the appellant was traveling in a jeep bearing No.AP25F 1230 along with other passengers and when the jeep reached Mallaram Gandhi on Varni Nizamabad road, the driver of the jeep had driven the jeep in a rash and negligent manner and lost control over the jeep, as a result of which, the jeep had turned turtle and the appellant received multiple injuries and was treated as in-patient for two months in the hospital. She had undergone skin grafting and suffered restricted movement of ankle.

8. It is pertinent to note that the Tribunal has awarded a very meager amount for the injuries sustained by the appellant. She had also undergone skin grafting and there was restricted movement of ankle even according to the evidence of the medical officer. It is also evident that she had undergone treatment as in-patient for two months in the hospital. The Tribunal has not considered all these aspects and awarded the compensation mechanically, perhaps basing on Schedule-II of the Motor Vehicles Act which has become obsolete after the decision of the Apex Court rendered in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another***¹.

9. Keeping in view the rationale in the said judgment, the following compensation is awarded.

¹ AIR 2009 SC 3104

Sl.No.	Name of Head	Compensation Awarded by Tribunal	Compensation Awarded by this Court
01.	Grievous injury	Rs.10,000/-	Rs.20,000/-
02.	Simple injury	Rs.2,000/-	Rs.5,000/-
03.	Pain and suffering	Rs.3,000/-	Rs.5,000/-
04.	Loss of earnings	Rs.4,000/-	Rs.12,000/-
05.	Attendant charges, nutrition and future treatment	-	Rs.10,000/-
06.			
	TOTAL	Rs.19,000/-	Rs.52,000/-

10. Accordingly, with the above calculation, the appeal is allowed in part, enhancing the compensation awarded by the Tribunal from Rs.19,000/- to Rs.52,000/- with proportionate costs and subsequent interest @ 9% per annum from the date of petition till the date of realization. Respondent No.2 insurance company is directed to deposit the balance amount within two months from the date of this order and, on such deposit, the appellant is permitted to withdraw the entire amount.

11. As a sequel to disposal of the appeal, miscellaneous petitions, if any, pending in this appeal shall stand closed as infructuous.

G. SHYAM PRASAD, J

Date: 14.11.2016.
TJMR