

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.1512 of 2005

JUDGMENT:

The injured, who is the petitioner in M.V.O.P.No.169 of 2001 on the file of the Court of the Motor Accidents Claims Tribunal-cum-District Judge, Kadapa (for short, Tribunal), is the appellant herein.

2. The appellant filed the said OP claiming compensation of Rs.3,00,000/- for the injuries sustained by him in a motor accident that occurred on 14.08.1998. It was stated in the said OP that on 14.08.1998, when the appellant was proceeding on his moped, and when he reached near Guvvala cheruvu ghat road, a Tata Sumo bearing No.AP16K 9249 came with high speed and hit him, as a result of which, he received grievous injuries. He was immediately shifted to Government headquarters hospital, Kadapa. The owner of the offending vehicle remained *ex parte* and the case was contested by the insurance company.

3. The Tribunal framed the following issues.

- “1. Whether the petitioner received injuries in Motor Vehicle Accident on 14.8.98 due to rash or negligent driving of TATA Sumo jeep bearing No.AP-16K-9249 by its driver?
2. Whether the petitioner is entitled for compensation and if so to what amount and from whom?
3. To what relief?”

4. The appellant was examined himself as P.W.1 and examined one Dr.B.Someswara Reddy as P.W.2 and got marked Exs.A.1 to A.8 on his behalf. No oral or documentary evidence was adduced on behalf of the respondents.

5. The Tribunal, on the basis of oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the Tata Sumo bearing No.AP16K 9249. As per Ex.A.2 wound

certificate, the Tribunal noticed that the appellant sustained fracture of right tibia and fibula which are grievous in nature. Though the claimant claimed 25% disability based on Ex.A.4 certificate issued on 13.04.2001, the same was disbelieved by the Tribunal on the ground that when the accident took place in the month of August, 1998, P.W.2 issued the disability certificate on 13.04.2001. The Tribunal, without apportioning the amount under different heads, awarded an amount of Rs.50,000/-, by its award dated 27.08.2004. Seeking enhancement of the said compensation, the present appeal is filed.

6. This Court carefully perused Ex.A.2 wound certificate and Ex.A.5 medical bills. There is no dispute with regard to the petitioner sustaining the fracture of right tibia and fibula. The medical bills show that the petitioner was admitted in a private hospital in Bangalore and took treatment. The medical bills came to an amount of Rs.56,771/-. It appears that initially the appellant was admitted in one Dr.Savitri Memorial Hospital, Kadapa which issued a certificate for Rs.30,000/-, but none was examined in support of the said certificate. A surgery was performed for the fracture and for the fracture, the petitioner is entitled for an amount of Rs.15,000/-. The medical bills show an amount of Rs.56,771/- and he is entitled for the said amount. During the period of hospitalization, the appellant would have lost his earnings, though after treatment he was discharging his normal duties for which he is entitled for an amount of Rs.5,000/- towards loss of earnings. The appellant must have suffered pain and suffering for the injuries, for which, he is entitled for Rs.15,000/- besides an amount of Rs.10,000/- towards attendant charges and extra nourishment. Thus, in all, an amount of Rs.1,01,771/-.

7. Hence, the award of the Tribunal dated 27.08.2004 in M.V.O.P.No.169 of 2001 awarding an amount of Rs.50,000/- is enhanced to Rs.1,01,771/-. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of petition till the date of

realization.

8. Accordingly, the appeal is allowed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 21.01.2016
TJMR