

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

M.A.C.M.A.No.631 of 2006

JUDGMENT:

This appeal arises out of the order dated 22.11.2005 in O.P.No.1346 of 2004 on the file of Motor Accident Claims Tribunal-cum-XIII Additional Chief Judge (F.T.C.), City Civil Court, Hyderabad.

The appellant is the petitioner in O.P.No.1346 of 2004 filed under Section 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.1,75,000/- for the injuries sustained by him in a motor accident that occurred on 26.01.2004.

Petitioner was examined as PW.1. On behalf of PW.1 - injured, PW.2, medical officer, was examined and marked Ex.A.1 - C.C. of FIR; Ex.A.2 - C.C. of charge sheet; Ex.A.3 - C.C. of accident register; Ex.A.4 - Original discharge card issued by Gandhi Hospital; Ex.A.5 - Two original discharge cards issued by Nivedita Orthopaedic Centre; Ex.A.6 - bunch of 10 medical bills for a sum of Rs.63,754/-; Ex.A.7 - Original disability certificate issued by PW.2; Ex.A.8 - Original medical certificate issued by PW.2; Ex.A.9 - Original medical prescriptions; and Ex.A.10 - X-ray films (2). On behalf of respondent, no witness was examined and Ex.B.1 - True copy of Insurance police bearing No.610409/31/03/00997 was marked.

The Tribunal awarded compensation of Rs.41,000/- as against the claim of Rs.1,75,000/-. The appellant being aggrieved by the quantum of compensation filed the present appeal for enhancement.

Learned counsel for the appellant submits that the Tribunal has awarded meagre compensation under various heads and they are required to be enhanced. It is further submitted that the petitioner has undergone severe pain and suffering and caused lot of inconvenience to him while working as a labourer in a brick kiln. It is further submitted that PW.2, Medical Officer, in his evidence, stated that there is 25% disability but the Tribunal has not considered the said disability, therefore, on this ground, sought for enhancement of compensation.

Learned counsel for the respondent – Insurance Company submits that the Tribunal has not considered the disability of 25% as Ex.A.7, disability certificate, was issued by PW.2 in his private capacity, and was not issued by a Medical Board and, therefore, the Tribunal has rejected his evidence. It is further submitted that the Tribunal has properly awarded compensation under various heads and it need not be enhanced.

On consideration of the evidence, it is obvious that the Tribunal has awarded compensation under various heads having considered that the appellant has received one

grievous injury viz. fracture of left femur. The Tribunal clearly held that, as per Exs.A.3 and A.4, fracture of left femur was proved. Unfortunately, though the accident and injury received by the appellant were proved, the appellant could not secure certificate from the Medical Board constituted for the purpose of issuing disability certificate. However, PW.2, Medical Officer, who treated the appellant for the injuries, issued Ex.A.7 - disability certificate showing disability at 25%. Even though, disability certificate was not taken into consideration for the purpose of assessment of disability, it is appropriate to award adequate compensation under other heads. It is also pertinent to note that the appellant had undergone treatment in Gandhi Hospital immediately after the accident for about three days as an in-patient. Thereafter, he had taken treatment at Niveditha Orthopaedic Hospital. Again, he had taken treatment at Anurag Hospital for some time.

PW.2, Medical Officer, who treated PW.1 – injured, clearly opined that the petitioner requires another operation and it may incur expenditure of Rs.1,50,000/-. This finding of the Medical Officer cannot be disbelieved. But, however, since there is no proper medical evidence in that regard, the Trial Court has not taken into consideration that aspect. However, in view of the fact that the petitioner was aged about 30 years and he was working as a labourer in a brick kiln and, in view

of the fracture suffered, he may not be able to attend to his regular work.

On consideration of all these aspects, the compensation is enhanced as shown in the tabular form.

Compensation granted under the following heads.	Compensation awarded by the Tribunal.	Compensation enhanced by this Court.
Transportation	Rs. 1,000/-	Rs. 2,000/-
Damage to clothes	Rs. 1,000/-	Rs. 1,000/-
Damage to motor cycle	Rs. 2,000/-	Rs. 2,000/-
Pain and suffering	Rs. 5,000/-	Rs. 15,000/-
Medical expenses	Rs. 5,000/-	Rs. 20,000/-
Attendant expenses	Rs. 6,000/-	Rs. 10,000/-
Extra nourishment	Rs. 6,000/-	Rs. 6,000/-
Loss of earnings	Rs. 12,000/-	Rs. 12,000/-
Uneasiness, inconvenience and temporary disability	Rs. 3,000/-	Rs. 25,000/-
Grievous injury		Rs. 10,000/-
Total	Rs. 41,000/-	Rs. 1,03,000/-

The Tribunal has not considered the medical bills to a tune of Rs.63,754/- filed under Ex.A.6 and awarded notional expenditure of Rs.5,000/- towards medical treatment. The finding of the Tribunal in granting notional expenditure towards medical treatment appears to be very meagre. When there are medical bills to a tune of Rs.63,754/-, and when PW.2, Medical Officer, has stated that the petitioner has

undergone treatment for pelvic fracture, the medical bills could have been permitted upto Rs.15,000/-. On consideration of the evidence on record, the compensation awarded by the Tribunal from Rs.41,000/- is enhanced to Rs.1,03,000/-

In the result, the appeal is partly allowed. The compensation awarded by the Tribunal of Rs.41,000/- is enhanced to Rs.1,03,000/- with proportionate costs and interest at the rate of 7.5% p.a. from the date of petition till the date of realization on the enhanced amount.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

Date:28.12.2016
usd

G.SHYAM PRASAD,J

