

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No. 203 of 2006

JUDGMENT:

This appeal is arising out of the order, dated 15.02.2005, in M.V.O.P.No. 1238 of 2001 on the file of the Chairman, Motor Accident Claims Tribunal-cum-VIII Additional District Judge, Guntur.

2. This is a case of motor vehicle accident. On 05.10.2001, the appellant boarded a jeep bearing registration No.AP 7T 8206 at Ponnur to go to Guntur. When the jeep came near Mamillapalli cross road, due to burst of tyre, the driver lost control over the jeep, which resulted in turn turtle of the jeep. The appellant had sustained a fracture to his right leg below the knee, and he was admitted in Dr.Chandramouli Hospital, Ponnur for first aid, and from there he was shifted to Government General Hospital, Guntur. The appellant had claimed compensation of Rs.1,00,000/- for the injuries sustained by him. R.1 and R.2 being the owner, and insurer of the vehicle, involved in the accident, they are jointly and severally liable to pay the compensation.

3. The 1st respondent remained *ex parte* before the Tribunal. The 2nd respondent Insurance Company filed a counter denying the

averments made in the petition. It is contended that the driver of the auto had no valid driving license. Therefore, sought for dismissal of the claim petition.

4. On consideration of the evidence available on record, the Tribunal has awarded a compensation of Rs.8,000/- with proportionate costs and interest at 9% p.a. from the date of petition till realization, by an order, dated 15.02.2005. Aggrieved by the quantum of compensation awarded by the Tribunal as against his claim of Rs.1,00,000/-, the appellant has preferred this appeal seeking enhancement of the compensation.

5. Heard Mr. B. Parameswara Rao, learned counsel for the appellant, and Mr. Byrapaneni Ramesh, learned counsel for the 2nd respondent Insurance Company.

6. Learned counsel for the appellant submitted that the Tribunal awarded a meager compensation, though the appellant sustained a fracture and multiple injuries in the accident. Therefore, he sought for enhancement of the compensation.

7. Learned counsel for the 2nd respondent-Insurance Company submits that the compensation awarded by the Tribunal is in

accordance with law and it does not require any interference. Therefore, prayed to dismiss the appeal.

8. Now, the point for consideration in this matter is whether there are sufficient grounds for enhancement of the compensation awarded by the Tribunal.

9. As seen from the order of the Tribunal, it is obvious that the Tribunal did not disbelieve the accident and the injury sustained by the appellant and the treatment undergone by him. Ex.A.3, certified copy of O.P. chits issued by the Government General Hospital, Guntur, clearly reveals that the appellant has received Type-I compound fracture of right leg. He was admitted in the hospital on 05.10.2001 and discharged on 20.10.2001. This certificate further shows that the appellant had suffered a grievous injury. There is also a supporting medical evidence to show that the appellant has taken treatment in Bone Setting Hospital. In villages, whenever persons sustain fractures in an accident, generally they go to bone setters, who give some orthodox treatment for setting the bones. Therefore, there is sufficient material to come to the conclusion that the appellant sustained a fracture of his right leg.

10. Having regard to the facts and circumstances of the case, it is appropriate to award just compensation in this case. Therefore, the

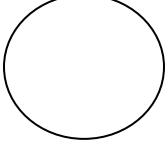
compensation awarded by the Tribunal for the fracture injury to right leg is enhanced from Rs.5,000/- to Rs.20,000/- and the compensation awarded for multiple injuries is enhanced from Rs.1,000/- to Rs.3,000/-. The appellant is also entitled for Rs.20,000/- towards extra nourishment, transportation charges and attendant charges, apart from the compensation of Rs.2,000/- awarded by the Tribunal towards medical expenses. In all, the appellant is entitled to Rs.45,000/- towards compensation.

11. In the result, the appeal is allowed in part. The compensation awarded by the Tribunal is enhanced from Rs.8,000/- to Rs.45,000/-. The enhanced amount of compensation shall carry interest at 7.5% p.a. from the date of petition till realization. The order of the Tribunal in other respects shall remain intact.

Consequently, miscellaneous petitions if any pending in the appeal shall stand dismissed. No order as to costs.

G. SHYAM PRASAD, J

24th November, 2016
cbs



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