

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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C.M.A.No.1516 of 2004

JUDGMENT:

This appeal is preferred by the injured, who was the claimant in M.V.O.P.No.370 of 1999 on the file of the Motor Vehicles Accidents Claims Tribunal-cum-II Additional District Judge, Guntur (for short, Tribunal) seeking enhancement of the compensation amount awarded by the Tribunal.

2. The appellant filed the said MVOP claiming a compensation of Rs.1,65,000/- for the injuries sustained by him in an accident that occurred on 19.12.1998. It was stated in the said MVOP that on 19.12.1998 at about 11.30 pm., while the claimant was coming on his Luna bearing No.AP7B 8141 from Quarry near Nallapadu to reach his house on the left side of the road leading from Guntur to Sattenapalli, and when he reached near Nagarjuna Sagar Canal, the driver of the tipper (lorry) bearing No.AP7T 2318 drove it in a rash and negligent manner and hit his Luna in opposite direction, due to which, the claimant fell down and sustained grievous injuries to his right leg. Immediately he was shifted to Guntur General Hospital and he was discharged on 20.12.1998 against medical advice. It was stated that the claimant was doing business in gravel and stone chips and was earning Rs.3,000/- per month. The owner of the offending vehicle remained *ex parte*. The insurance company filed a counter and contested the case.

3. On the basis of the pleadings, the Tribunal framed the following issues:

- “1. Whether the accident occurred due to rash and negligent driving of the driver of Tipper (lorry) bearing No. AP7T 2318?
2. Whether the petitioner is entitled to compensation, if so, to what amount?
3. To what relief?”

4. The claimant was examined as P.W.1 and examined P.W.2 doctor and marked Exs.A.1 to A.8. No oral or documentary evidence was adduced on behalf of the respondents.

5. The Tribunal, on the basis of the oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.AP7T 2318. With regard to compensation, the Tribunal noticed that as per Ex.A.3 wound certificate, the claimant sustained the following injuries.

“1. A lacerated wound of 8 X 2 Cm size present over right ankle of dorsal aspect, skin deep, bleeding present.

2. An abrasion of 4 X 2 Cm size present over the anterior aspect of right ankle 3” above the previous wound.

3. A linear lacerated wound of 6” X 1” size present obliquely over the anterior aspect of right leg, skin deep, red in colour.

4. Swelling and deformity of right leg middle and lower 1/3, tenderness present.

5. Multiple abrasions present over right forearm and hand dorsal aspect and right knee joint.”

6. It was also noticed that the X-ray revealed fracture on both bones of leg. The doctor ultimately opined that wounds 3 and 4 are grievous in nature and other wounds are simple in nature. The claimant examined the doctor belonging to Praja Vaidyasala as P.W.2. As per his evidence, the disability sustained by the claimant was 10% to 15% which is partial and permanent. However, considering the severity of injuries, the Tribunal awarded an amount of Rs.25,000/- in lumpsum and no amount was awarded towards medical expenses, though the claimant filed medical bills for Rs.22,084/-. Seeking enhancement of the said compensation, the present appeal is filed.

7. This Court carefully perused Exs.A.3 to A.7 relating to the injury sustained by the claimant. Ex.A.3 is the wound certificate, Ex.A.4 is medical bills and Ex.A.5 contains 5 X-rays. Ex.A.6 is the case

sheet and Ex.A.7 is the certificate issued by Dr.K.Naga Raju. The evidence on record clearly shows that the petitioner sustained fracture in the accident, and though he was admitted in the Government General Hospital on 19.12.1998, in order to get better treatment, he discharged himself against medical advice on 20.12.1998 and joined in Praja Vaidyasala. Though he filed medical bills for an amount of Rs.22,084/- and a receipt was passed for 20,100/- by the Praja Vaidyasala, no amount was awarded by the Tribunal.

8. In view of the same and taking into consideration the fracture sustained by the claimant, this Court feels that it is just and proper to grant an amount of Rs.22,000/- towards medical expenses. Since the petitioner sustained grievous injuries including the fracture, he must have undergone some pain and suffering, for which, an amount of Rs.10,000/- can be awarded. Somebody must have attended the claimant during the period of hospitalization, which was stated to be for four months, for which, an amount of Rs.8,000/- can be awarded towards attendants charges and extra nourishment. In all, an amount of Rs.65,000/- can be awarded against the amount of Rs.25,000/-, as awarded by the Tribunal.

9. Hence, the Award of the Tribunal dated 08.03.2004 in M.V.O.P.No.370 of 1999 is modified by awarding an amount of Rs.65,000/-. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of petition till the date of realization.

10. The appeal is, accordingly, allowed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 08.02.2016
TJMR