

HON'BLE SRI JUSTICE G.SHYAM PRASAD

MACMA No.802 OF 2006

JUDGMENT:

This appeal arises out of the judgment dated 09.09.2005 in O.P.No.104 of 2001 on the file of Chairman, Motor Accidents Claims Tribunal-cum-II Additional District (FTC), Nizamabad (for short "Tribunal").

The parties are arrayed in the appeal as petitioner and respondents as arrayed in O.P.No.104 of 2001.

The facts, in brief, are that on 28.07.2000 at about 12.30 noon, when the petitioner traveling on his scooter to go to Kanjar Village to his relative's house and when he reached in front of Uppala Mallaiah Petrol Bunk, a car bearing No.AP09 S 7777 driven by its driver at high speed in a rash and negligent manner, dashed against the scooter of the petitioner, due to which, he sustained fractures and simple injuries. Immediately he was admitted in the Government Hospital, Nizamabad and therefrom he was shifted to Amrutha Laxmi Multi Speciality Hospital, Nizamabad where he was treated as inpatient and operated, and a rod was inserted and he has to undergo another operation after six months, for removal of steel rod. The Station House Officer, Traffic Police Station, Nizamabad registered a case in Crime No.97 of 2000 under Section 337 of IPC against the driver of the offending vehicle. The claimant claims that he sustained permanent disability on account of accident and, therefore, sought for Rs.2,00,000/- towards compensation.

Being aggrieved by the impugned order, this appeal has been preferred by the petitioner injured for enhancement of compensation.

The 1st respondent-owner of the vehicle and the 2nd respondent-insurance company denied all the material allegations mentioned in the petition and sought for dismissal of the claim of the petitioner.

Heard learned counsel for the appellant and respondent No.2.

During enquiry, before the Tribunal, on behalf of the petitioner, PWs1 and 2 were examined and Exs.A1 to A.15 were marked to substantiate his claim as regards his entitlement for compensation claimed. On behalf of the respondents, no oral evidence was adduced, but filed Exs.B.1 policy and Ex.B.2 wound certificate.

On appraisal of evidence, both, oral and documentary, the Tribunal held that due to rash and negligent driving of the driver of the jeep, accident had occurred, accordingly issue No.1 was answered in favour of the petitioner.

The Tribunal held issue No.2, holding that by the date of accident, the offending vehicle was insured with the 2nd respondent, and since negligence is proved, awarded compensation of Rs.25,000/-.

Learned counsel for the appellant submits that the compensation awarded by the Tribunal is very low and meager and that the Tribunal has not considered the fact that the petitioner

was treated as inpatient for 15 days in the hospital, and he underwent operation. Ex.A.15 is the disability certificate showing 50% disability, which was not considered by the Tribunal. There was no medical board constituted when the medical certificate was issued. Therefore, sought for enhancement of compensation.

Learned counsel for the 2nd respondent-insurance company submitted that the injuries received by the petitioner are simple in nature and therefore, the compensation awarded by the Tribunal does not require any interference.

The point for consideration in this matter is whether the appellant is entitled for enhancement of compensation?

The Tribunal believed the evidence of PWs.1 and 2 and documents filed by the petitioner, and granted compensation of Rs.25,000/- under all the heads. The Tribunal having accepted the evidence and documents of the petitioner, has not granted adequate and just compensation. The compensation is enhanced as follows:

Sl.No.	Name of Head	Compensation Awarded by Tribunal	Compensation Awarded by this Court
01.	Grievous injury, fracture of left Taurus and one simple injury	Rs.15,000/-	Rs.25,000/-
02.	Medicines, extra nourishment, attendant and transportation charges	Rs.5,000/-	Rs.15,000/-

03.	Pain and suffering	Rs.5,000/-	Rs.15,000/-
	TOTAL	Rs.25,000/-	Rs.55,000/-

Accordingly, the Civil Miscellaneous Appeal is allowed in part modifying the impugned award passed by the Tribunal, by enhancing the compensation from Rs.25,000/- to Rs.55,000/- with interest @ 7.5% per annum. The 2nd respondent is directed to deposit the amount within two month from the date of receipt of a copy of this order. On such deposit the appellant is permitted to withdraw half of the decree amount, and the remaining can be withdrawn after expiry of the appeal time. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending shall stand closed.

18.11.2016
kvrn



G.SHYAM PRASAD, J