

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No.1632 OF 2006

JUDGMENT:

This Motor Accident Civil Miscellaneous Appeal is arising out of the order dated 05.10.2005 in O.P.No.431 of 2000 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-VI Additional District Judge (Fast Track Court), Anantapur at Gooty (for short, Tribunal).

2. Appellant is the petitioner who filed above OP claiming compensation of Rs.1,00,000/- on account of injuries sustained by him in a motor vehicle accident. The Tribunal, on consideration of the evidence, awarded compensation of Rs.33,000/- as against the claim of Rs.1,00,000/-. Being aggrieved by the impugned award, the appellant filed this appeal for enhancement of compensation under various heads.

3. The brief facts of the case are that on 14.01.2000 at about 7.30 am, while the appellant A.Kullayappa, who was aged about 45 years working as Assistant Marketing Supervisor in Agricultural Market Committee, Check Post at Chukkaluru, a tractor and trailer bearing Nos.AP21A 8029 and 8030 came in high speed in rash and negligent manner and dashed against the appellant, as a result of which, the appellant received injuries and he was admitted in the

Government hospital, Tadipatri and, from there, he was shifted to Government hospital, Anantapur. The Police, Tadipatri Taluk Police Station registered a case in Crime No.10/2000 under Sections 337 and 338 IPC against the driver of the tractor and trailer. The appellant claimed compensation against the owner of the vehicle and insurer of the crime vehicle, respondents 1 and 2 respectively.

4. Respondent No.1 remained *ex parte* and respondent No.2 filed counter denying the allegations in the OP and sought for dismissal of the OP.

5. The Tribunal, on consideration of the evidence, held that the accident occurred due to the negligent driving of the driver of the tractor and trailer. The Tribunal, considering the nature of injuries, awarded compensation of Rs.33,000/-.

6. The point for consideration in this matter is whether there are sufficient grounds for enhancement of compensation?

7. Learned counsel for the appellant Sri I.Venkata Prasad submits that the appellant was treated as in-patient for 14 days in two hospitals and he had incurred huge medical expenditure and the Tribunal has awarded a meagre amount and therefore sought for enhancement of the compensation.

8. Learned counsel for the second respondent Smt.Pushpinder Kaur submits that the Tribunal has properly appreciated the evidence and awarded just compensation. She further submits that as there are no medical bills and the medical officer was not examined, the appellant is not entitled for medical expenditure more than what the Tribunal has awarded.

9. The Tribunal, without considering that the appellant had undergone treatment for 14 days in the hospital and he had suffered grievous injury, awarded a meagre amount of Rs.3,000/- towards medical expenses which can be enhanced to Rs.10,000/-, in view of the treatment undergone by the appellant in the hospital. The appellant also underwent an operation for removal of his spleen. He must have incurred huge expenditure for purchasing medicines. Due to various reasons, the appellant could not produce the medical bills and he could not even examine the medical officer in this case. There is no dispute of appellant involving in an accident and receiving injuries in the said accident. The testimony of medical officer P.w.2 clearly reveals that he conducted an operation for laparotomy and splenectomy for ruptured skin due to the injuries sustained by him on the abdomen and his spleen was removed. The medical officer has also stated that because of the removal of spleen, the appellant got disfigurement on his abdomen. On

consideration of the evidence of P.W.2., it can be safely concluded that the appellant must have undergone treatment and have incurred medical expenditure of Rs.10,000/-. It is also obvious that the appellant must have undergone severe pain and suffering because of the injury and therefore the amount of Rs.10,000/- awarded by the Tribunal towards pain and suffering is enhanced to Rs.20,000/-. It is also clear from the medical evidence that the appellant has suffered grievous injuries and the Tribunal awarded Rs.20,000/- towards grievous injuries and it has not awarded any loss of earnings. Therefore, towards loss of earnings for a period of three months @ Rs.3,000/- per month, is awarded, which comes to Rs.9,000/- as the appellant was working as Assistant Marketing Supervisor in Agricultural Market Committee, Check Post at Chukkaluru. Towards transportation and extra nourishment, an amount of Rs.5,000/- is awarded. Thus, total amount of Rs.64,000/- is awarded to the appellant.

10. In the result, the appeal is partly allowed and the compensation awarded by the Tribunal of Rs.33,000/- is enhanced to Rs.64,000/- with proportionate costs and interest @ 9% per annum on the amount awarded by the Tribunal from the date of petition till realisation and @ 7.5% per annum on the amount enhanced from the date of petition till the date of realisation. No order as to costs.

11. As a sequel, miscellaneous petitions, if any, pending in this Motor Accident Civil Miscellaneous Appeal, shall stand dismissed as infructuous.

G. SHYAM PRASAD, J

Date:02.12.2016.
TJMR

