

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No.2391 of 2006

JUDGMENT:

This appeal is arising out of the order, dated 25.07.2006, passed in M.V.O.P.No.92 of 2004 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge, East Godavari, Kakinada (for short 'the Tribunal).

2. The appellant is the petitioner. He filed the above referred O.P. under Section 166 of the Motor Vehicles Act, 1988, for grant of compensation of Rs.80,000/- on account of the injuries sustained by him in a motor vehicle accident that occurred on 24.07.2003. He stated that on 24.07.2003, he boarded a city bus bearing No. AP 5Y 3335 at Vakada to go to Kakinada for eking out his livelihood and when the bus reached near ONGC camp site at Karapa at about 10.00 or 10.30 a.m., the driver of the bus, respondent No.1 herein, drove the same in a rash and negligent manner and while overtaking another vehicle, it turned towards right side road margin and immediately took turn to left side road margin and went into 'pantakalva' by the side of the road, resulting in fracture to his left arm. Thereafter, he was shifted to Government Hospital, Kakinada.

3. Respondent No.1, driver of the vehicle, and respondent No.3, Insurance Company, have filed counters denying the allegations made in the petition.

4. The Tribunal, on consideration of the oral and documentary evidence, has awarded compensation of Rs.8,000/- as against the claim of Rs.80,000/-. Dissatisfied with the quantum of compensation, the appellant filed this appeal for enhancement of the same.

5. The only point that arises for consideration in this appeal is as to whether the appellant is entitled to enhancement of compensation?

6. Learned counsel for the appellant mainly submitted that the appellant has received one fracture injury to his left arm, which is grievous in nature.

7. Ex.A2 is the attested copy of wound certificate issued to the appellant. The Tribunal having believed that the appellant has received a fracture, has awarded a sum of Rs.5,000/- for the grievous injury and a sum of Rs.3,000/- for pain and suffering and mental agony. Thus, in total, the Tribunal has awarded a sum of Rs.8,000/- towards compensation. It is obvious that the appellant has claimed compensation of Rs.2,000/- towards transport to hospital, Rs.12,000/- towards loss of earnings, Rs.23,000/- towards permanent disability, Rs.3,000/- towards extra-nourishment, Rs.10,000/- towards mental agony and Rs.20,000/- towards pain and suffering. The Tribunal, without considering all these heads, has awarded a meagre compensation.

8. On consideration of the evidence on record, the compensation awarded by the Tribunal is enhanced from Rs.8,000/- to 43,000/-. The tabular form given below would show the enhancement particulars:

Sl. No.	Name of Head	Compensation awarded by Tribunal	Compensation awarded by this Court
1.	Grievous injury	Rs.5000/-	Rs.20,000/-
2.	Pain and suffering and mental agony	Rs.3,000/-	Rs.5,000/-
3.	Transport charges to the hospital	nil	Rs.2,000/-
4.	Loss of earnings	nil	Rs.6,000/-
5.	Extra-nourishment	nil	Rs.10,000/-

9. Accordingly, the appeal is allowed in part modifying the compensation awarded by the Tribunal from Rs.8,000/- to 43,000/- with proportionate costs and interest at the rate of 7.5% per annum. The respondents are directed to deposit the amount within two months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the same, if he has not withdrawn earlier. There shall be no order as to costs.

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

G. SHYAM PRASAD, J

Date: 26.12.2016
kdl

