

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No. 1517 of 2006

JUDGMENT:

This appeal is arising out of the order, dated 03.02.2006, passed in M.V.O.P.No. 183 of 2004 on the file of the Chairman, Motor Accident Claims Tribunal-cum-III Additional District Judge, Kakinada.

2. This is a case of motor vehicle accident. The appellant and her husband, while traveling in a taxi bearing registration No.CH-02-1055 to go to Amritsar from Chandigarh on 05.04.2003, met with an accident, when the driver of the taxi had driven it in a rash and negligent manner and lost control over it. The police, Balachaur P.S. registered a case against the 1st respondent driver under Section 337 of IPC. As a result of the accident, the appellant and her husband sustained injuries and took treatment in P.G.I. Chandigarh Hospital. Therefore, the appellant and her husband have preferred two separate petitions before the Tribunal in O.P.No.183 of 2004 and 182 of 2004 claiming compensation of Rs.4,50,000/- and 3,00,000/- respectively. The respondents 1 to 3, being the driver, owner and insurer of the vehicle, are jointly and severally held liable for payment of the compensation.

3. The respondents 1 and 2 remained *ex parte* before the Tribunal. The 3rd respondent Insurance Company filed a counter denying the averments made in the petition. It is contended that the amount of compensation claimed by the appellant is highly excessive and exorbitant. Therefore, prayed to dismiss the claim petition.

4. On consideration of the evidence available on record, the Tribunal has awarded compensation in those two petitions, by a common order, dated 03.02.2006. Aggrieved by the quantum of compensation of Rs.39,000/- with proportionate costs and interest at 7.5% p.a. from the date of petition till realization, awarded by the Tribunal as against her claim of Rs.4,50,000/-, the appellant has preferred this appeal seeking enhancement of the compensation.

5. Heard Mr. Y.V. Ravi Prasad, learned counsel for the appellant, and Mr. G. Venkata Rao, learned counsel for the 3rd respondent Insurance Company. The appeal against the respondents 1 and 2 was dismissed for default.

6. Learned counsel for the appellant submitted that the Tribunal has awarded compensation of Rs.30,000/- towards pain and suffering for two fractures and five simple injuries and that the compensation awarded by the Tribunal is very meager and not in accordance with law. Therefore, he prayed for enhancement of the compensation.

7. Learned counsel for the 3rd respondent-Insurance Company submits that the award of compensation by the Tribunal is in accordance with law and it does not require any interference. Therefore, prayed to dismiss the appeal.

8. It is pertinent to note that there is no dispute with regard to any other aspect, except the quantum of compensation awarded by the Tribunal.

9. Now, the point for consideration in this matter is whether the appellant is entitled for enhancement of the compensation.

10. As per Ex.A.7 wound certificate, the appellant sustained two fractures and five simple injuries. But, a perusal of the order of the Tribunal reveals that no amount has been awarded by the Tribunal for the injuries sustained by the appellant, except awarding an amount of Rs.30,000/- towards pain and suffering for all the injuries put together. Therefore, in the facts and circumstances of the case, it is just and proper to enhance the compensation, as indicated below:

Nature of head	Compensation awarded by Tribunal	Compensation awarded by this Court
2 grievous injuries	No amount is awarded	Rs.40,000/-
5 simple injuries	No amount is awarded	Rs.25,000/-
Pain and suffering	Rs.30,000/-	Rs.30,000/- (not enhanced)

Loss of earnings	Rs.4,000/-	Rs.5,000/-
Extra nourishment, attendant charges and other expenses	Rs.2,000/- (for extra nourishment only)	Rs.5,000/-
Medicines	Rs.3,000/-	Rs.3,000/- (not enhanced)
	Rs.39,000/-	Rs.1,08,000/-

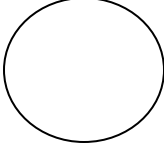
Thus, the compensation awarded by the Tribunal is enhanced from Rs.39,000/- to Rs.1,08,000/-.

11. In the result, the appeal is partly allowed. The compensation awarded by the Tribunal is enhanced from Rs.39,000/- to Rs.1,08,000/- with proportionate costs and interest at 7.5% p.a. from the date of petition till realization. The respondents are directed to deposit the entire amount before the Tribunal within two months from the date of receipt of a copy of this order. If any amount of compensation is already deposited, the same shall be deducted from the total compensation amount. On such deposit, the appellant is permitted to withdraw the entire amount deposited.

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

G. SHYAM PRASAD, J

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