

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No. 496 OF 2006

JUDGMENT:

1. This Appeal is arising out of the award, dated 16.11.2005, in O.P. No.191 of 2004, on the file the Chairman, Motor Vehicle Accident Claims Tribunal-cum-II Additional District Judge, Karimnagar at Jagtial (for short, 'the Tribunal').

2. Appellant herein is the 3rd respondent-insurance company, 1st respondent herein is the petitioner-injured, and the respondents 2 and 3 herein are the respondents 1 and 2 before the Tribunal. 2nd respondent herein is the driver and 3rd respondent herein is the owner of the tractor and trailer bearing No.AP15V 2751 and 2752.

3. For convenience of reference, the ranks given to the parties before the Tribunal will be adopted throughout this judgment.

4. The brief facts of the case are that, on 30.05.2004, while the petitioner-injured, who is working as police constable, after completing the entrusted work at Karimnagar, returning on a Hero Honda motorcycle bearing No.MP23MD 9291 to go to Dharmapuri, and when he reached near Bommareddipalli cross-roads, the tractor and trailer came in his opposite direction in a rash and negligent manner and dashed against his scooter. As a result of which, the petitioner fell down and sustained compound fracture of both bones of right leg, fractures to tibia and fibula. Immediately, he was shifted to First Med Hospital, Karimnagar where he was treated as inpatient for 13 days and also underwent operation,

fixed rods and screws, advised complete rest for six months. A case in Crime No.59 of 2004 was registered, for the offences under Sections 337 and 338 of I.P.C., by Dharmapuri P.S. against the driver of the crime vehicle. Hence, the petitioner filed the Petition before the Tribunal under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short, 'the Act') claiming compensation of Rs.2,00,000/- for the injuries sustained by him in the motor vehicle accident.

5. Respondents 1 and 2, filed counter denying the rash and negligent driving of 1st respondent and the manner in which it had occurred and sought for dismissal of the petition against them.

6. Respondent No.3, insurer of the crime vehicle, filed counter denying the claim of the petitioner.

7. The Tribunal, on consideration of the pleadings and evidence of the witnesses PWs.1 to 3, and the documents Exs.A-1 to A-94 and Ex.B-1, on behalf of the respondents, passed the Award granting compensation of Rs.2,00,000/- with proportionate costs and interest at the rate of 7.5% p.a. from the date of petition till realization making all the respondents jointly and severally liable to pay the same. The Tribunal has awarded the compensation of Rs.2,00,000/- under various heads, which is shown below in the tabular form:

S.No.	Name of the Head	Compensation awarded
01.	Medical expenses	Rs.59,223/-
02.	Pain and suffering	Rs.30,000/-
03.	Transport charges	Rs.11,000/-
04.	Attendant charges	Rs.2,500/-
05.	Loss of future amenities	Rs.15,000/-
06.	Loss of earnings	Rs.37,730/-
07.	Nutritious food	Rs.5,000/-

08.	Loss of future earnings	Rs.40,000/-
	TOTAL	Rs.2,00,453/-

8. Being aggrieved, 3rd respondent-appellant preferred the instant Appeal seeking to set-aside the award as the compensation awarded by the Tribunal is highly excessive and exorbitant.

9. The appeal against respondent Nos.2 and 3 herein was dismissed for default *vide* order of this Court on 22.04.2016. In spite of the same, the appellant-insurance company has not taken any steps for setting-aside the dismissal order dated 22.04.2016.

10. Heard Mr. V. Sambasiva Rao, learned standing counsel for the 3rd respondent-appellant, and Mr. S. Satyam Reddy, learned counsel for the petitioner-1st respondent.

11. The point for consideration in this matter is whether the compensation awarded by the Tribunal is highly excessive and it is liable to be set-aside?

12. The Tribunal, in Para 14 of its order taking into consideration various aspects, awarded an amount of Rs.59,223/- towards medical expenses, which does not require any interference. The amount of compensation awarded by the Tribunal under the head of pain and suffering - Rs.30,000/-, Transportation charges - Rs.11,000/-, Attendant charges - Rs.2,500/-, nutritious food - Rs.5,000/- and loss of future amenities - Rs.15,000/- also does not require any interference as they are very reasonable.

13. Learned counsel for the appellant submitted that Rs.37,730/- granted towards the loss of earnings during the treatment is on higher side. The order of the Tribunal in Para 19, which is extracted hereunder, clearly shows that they are calculated very reasonably basing on the salary of the petitioner. Therefore, it does not require any interference.

“The claimant is a constable and as seen from Ex.A.94 he was on leave for 154 days. Ex.A.93 is the salary certificate of the claimant for the month of June, 2005 according to which the monthly salary of the claimant is Rs.7,350/-. Except suggesting that Ex.A.93 and A.94 are not correct documents, no circumstances are placed before the Court to doubt their veracity. Therefore, and as the seriousness of injury suffered by him and as the duties of the claimant as a constable are onerous, it is not unreasonable to hold that the claimant could have been on leave for 154 days. Therefore, by calculating the salary @ Rs.7,350/- for 154 days, the loss of earnings comes to Rs.37,730/-.”

14. Learned counsel for the appellant further disputed with regard to the quantum of compensation awarded towards loss of future earnings Rs.40,000/- and contended that it is highly excessive. The Tribunal has clearly held in Para 23 of the order, which is extracted hereunder, for granting such an amount of compensation, rightly keeping in mind the future prospects of the 1st respondent to the cadres of head constable, A.S.I. and S.I.:

“23. It is held in the above decision that in estimating the loss, future promotions and increments, revisions of pay are to be taken into consideration and with the disability the claimant has in his leg, the conclusion is irresistible that he cannot withstand the physical test and secure promotions as Head Constable, A.S.I. and then S.I. and, therefore, it is

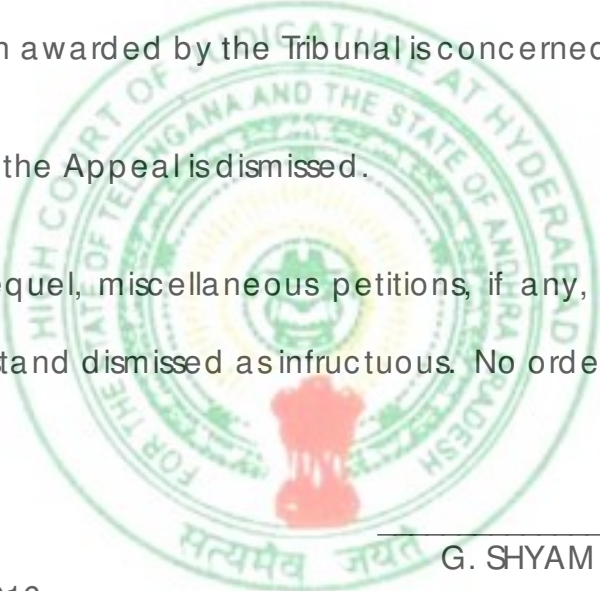
impossible to estimate the pecuniary loss the claimant is likely to suffer. Taking over all circumstances of the case into consideration and having regard to the long service ahead of the claimant, it can be reasonably estimated that the claimant would have been in good position like Sub Inspector, at least for a period of five years, as A.S.I. for a period of eight years and as Head Constable for a period of ten years. The future loss of earnings can thus be put at Rs.40,000/- and the said amount is awarded.”

15. On consideration of the entire evidence on record, it is obvious that the Tribunal has passed a well reasoned order, which does not require any interference insofar as the quantum of compensation awarded by the Tribunal is concerned.

16. Hence, the Appeal is dismissed.

17. As a sequel, miscellaneous petitions, if any, pending in this Appeal shall stand dismissed as infructuous. No order as to costs.

Date: 20.12.2016.
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