

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.NO.1433 OF 2005

JUDGMENT:

This appeal is preferred by the appellant-petitioner against the order, dated 31-03-2005 in O.P.No.562 of 2004 on the file of the Chairman, Motor Accident Claims Tribunal-cum- II Additional District Judge, Nalgonda at Suryapet (for short 'the Tribunal) seeking enhancement of compensation.

2. The appellant herein is the petitioner, whereas the respondents herein are the respondents before the Tribunal.

3. For the sake of convenience, the parties herein after will be referred to as they were arrayed before the Tribunal.

4. Petitioner herein filed the above O.P. claiming compensation of Rs.75,000/- stating that on 25-10-2002 at 6.00 P.M., when he along with others were travelling in the lorry bearing No.AP-13-U-3249, and when they reached SV Engineering College at Suryapet and crossed the stationed lorry on road, a lorry bearing No.AP-4U-1499 came in a rash and negligent manner with high speed from opposite side and dashed the lorry. In the said accident, the petitioner and others sustained serious injuries. The petitioner sustained fracture injury to left leg to Condylar, Tibia and also on the other parts of the body. He was shifted to Government Hospital, Suryapet. The petitioner was a driver by profession and was earning Rs.3,500/- per month.

5. 1st respondent-owner of the lorry remained ex-parte and the 2nd respondent-Insurance Company filed counter denying the averments made in the petition.

6. Basing on the above pleadings, the following issues were settled for trial:

1.Whether the pleaded accident occurred resulting in injuries to the claimant, and if so, whether it was due to the fault of the driver of lorry bearing No.AP-4-U-1499?

2.Whether the lorry bearing No.AP-4-U-1499 belongs to R1 and stood insured with R2 on the date of the accident, and, if so, whether the

policy covers the risk of the claimant?

3. Whether the claimant is in principal entitled to compensation, and if so, to what amount and from which of the respondents?

4. To what relief?

7. The petitioner himself was examined as P.W.1 and got marked Exs.A1 to A4. On behalf of the 2nd respondent, no oral evidence was adduced except marking Ex.B1-insurance policy.

8. The Tribunal after considering the evidence on record, held that the accident was occurred due to rash and negligent driving of the lorry bearing No. AP-4-U-1499 by its driver.

9. Regarding injuries, the Tribunal noticed that as per Ex.A2-wound certificate, the petitioner sustained one grievous injury to left leg and accordingly awarded an amount of Rs.5,000/-under the head of pain and suffering. Since the petitioner did not file any medical bills with regard to disability, no compensation was awarded. Assuming that the petitioner requires bed rest for three months, an amount of Rs.4,500/- was awarded for loss of earnings. Thus, in all an amount of Rs.9,500/- was awarded vide impugned award. Being not satisfied with the compensation, the petitioner filed the present appeal.

10. Ex.A2-injury certificate issued by the medical officer of the Area Hospital, Suryapet shows that there was grievous injury caused by blunt object and age of the injury was four days. The injury was caused on the left leg and it was accepted by the Tribunal. If it is a fracture, the petitioner would have been in the hospital for quite some time and surgery would have been performed. But, there is no evidence to that effect. This Court feels that an amount of Rs.5,000/- awarded for the fracture is grossly inadequate and it needs enhancement to Rs.10,000/-. In the absence of any evidence, this Court is not in a position to award any amount towards medical expenses except confirming the loss of earnings for the period of three months. An amount of Rs.5,000/- is awarded towards extra nourishment for his hospitalisation. Thus, an amount of Rs.9,500/- awarded by the Tribunal is enhanced to Rs.15,000/-. The enhanced compensation amount shall carry interest at 9% p.a., from the date of petition till the date of realisation.

11. Accordingly, the appeal is partly allowed. No order as to

costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 21-01-2016

Hsd