

HONOURABLE SRI JUSTICE G.SHYAM PRASAD

M.A.C.M.A.No.404 OF 2006

JUDGMENT:

This appeal is arising out of award dated 5th January, 2006 in M.V.O.P.No.222 of 2002 on the file of District Judge-cum-Chairman, Motor Accidents Claims Tribunal, Chittoor.

The appellant fled M.V.O.P.No.222 of 2002 under Section 166 of M.V.Act claiming compensation of Rs.2,00,000/- on account of injuries sustained by him in Motor Vehicle Accident occurred on 11-12-2001.

The tribunal on a consideration of evidence of P.Ws.1 and 2 the injured and the Medical Officer and considering the documents Ex.A.1 C.C. of F.I.R., in Cr.No.158 of 2001 of Anantapuram Police station dated 12-12-2001 and Ex.A.2 charge sheet in C.C.No.727 of 2001 on the file of Additional J.F.C.M. Anantapur dated 26-12-2001 and Ex.A.3 C.C. of calendar and judgment in C.C.No.727 of 2001 dated 28-12-2001 and Ex.A.4 C.C. of wound certificate dated 11-12-2001 on behalf of appellant and Ex.X.1 Case sheet relating to treatment obtained by the petitioner which is marked through P.W.2, awarded compensation of Rs.28,000/- against claim of Rs.2,00,000/- of the appellant. The respondents have not adduced any evidence either oral or documentary on their behalf before the tribunal.

Being aggrieved by the quantum of compensation awarded by the tribunal, as very low and meager, this appeal has been preferred for enhancement of compensation.

The learned counsel for appellants Sri S.V.Muni Reddy, advanced argument on behalf of appellant. On behalf of respondent, Sri T.K. Sridhar advanced arguments.

The point for consideration in this matter is whether appellant is entitled for enhancement of compensation?

The learned counsel for the appellant submitted that while the appellant was traveling in a lorry bearing No.AP 03 T 9831 as cleaner, the lorry met with an accident due to rash and negligent driving of the driver of the lorry, the appellant has sustained grievous injuries. He was shifted to Government Hospital, where he had taken treatment. The appellant has sustained grievous injuries, deformity and confusion over the mid-third lower third junction of left thigh, injuries to left cheek, dorsum of right hand, left arm etc. The appellant underwent two major operations in G.G. Hospital, Anantapur and he had taken treatment for 15 days and spent Rs.40,000/- towards medical expenses. The appellant is unable to do any work and he is totally dependent, and he has to spend an amount of Rs.50,000/- in future for the operation to be conducted on him.

The learned counsel for the appellant further submitted that the tribunal has awarded meager amount of compensation of Rs.28,000/- in respect of severe injuries received by the appellant. The nature of treatment undergone by him as per Ex.A.4 wound certificate was not considered by the tribunal. The oral evidence of P.Ws.1 and 2 was not considered in awarding compensation, and therefore, sought for enhancement of compensation.

The learned counsel for respondents submitted that the compensation awarded by the Tribunal is in accordance with law and the appellant did not produce any medical bills and the expenditure incurred by him towards medical expenses and therefore, the quantum of compensation fixed by the tribunal is sufficient for the injuries sustained by him.

The testimony of P.W.1 would clearly reveal that he has received injuries in the Motor Vehicle Accident. He had undergone two major operations in G.G.Hospital, Anantapur and he was treated as inpatient for 15 days. The said fact is supported by evidence of P.W.2. P.W.2 clearly deposed that he had treated patient on 14-12-2001 and discharged him on 5-1-2002. He found fracture shaft of left femur and he had conducted operation on 21-12-2001. He had advised P.W.1 not to carry any weights on the effected limb. P.W.2 further stated that he had also found two small injuries. He issued Ex.A.4 wound certificate and Ex.X.1 case sheet showing the nature of treatment undergone by the appellant. In support of the evidence of P.Ws.1 and 2, trial court has awarded an amount of Rs.20,000/- towards fracture received by the appellant and Rs.5,000/- towards medical expenses and Rs.3,000/- towards extra nourishment. In total, the tribunal awarded an amount of Rs.28,000/-.

Admittedly, the appellant had undergone treatment in S.V.R.R. Hospital, Tirupati and Government General Hospital, Anantapur. The learned counsel for the respondents submitted that as the appellant had undergone treatment in Government Hospital, he does

not require to spend any amount on medical expenditure. As a matter of fact, it is not a correct submission in view of the fact that even in Government Hospitals, patients are expected to purchase medicines from out side some times. It is pertinent to note that petitioner had undergone operation in the hospital for the fracture of shaft of left femur. One operation was conducted on 21-12-2001. The tribunal has awarded only Rs.5,000/- towards medical expenditure and Rs.3,000/- towards extra nourishment as reasonable compensation keeping the nature of the injuries that the grievous injury to his fracture shaft of left femur and two simple injuries and as he had undergone treatment for 15 days in the hospital. He is entitled for some more compensation towards the medical expenditure and extra nourishment charges transport charges, pain and suffering and future treatment for the injuries and the future loss of earnings. On a consideration of the evidence, it is just and reasonable to enhance compensation under the following heads in view of the principle laid down by the Apex Court in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another***¹.

1) Fractured injuries	Rs.20,000/-
2) Medical expenses	Rs.15,000/-
3) Extra nourishment	Rs.10,000/-
4) Transportation charges	Rs. 2,000/-
5) Pain and suffering	Rs.5,000/-
6) Attendant charges	Rs.5,000/-

¹ AIR 2009 SC 3104

7) Loss of earnings for two months Rs.6,000/-

Total. Rs.63,000/-

The Tribunal had awarded interest at the rate of 9% p.a. Since there is no challenge by the insurance company on the rate of interest, there is no need to interfere with the rate of interest granted by the Tribunal, keeping in view of the facts of this case.

The total compensation awarded to the appellant is Rs.63,000/- with costs and interest at the rate of 9% p.a., from the date of petition till realization excluding the amount paid if any under no fault liability. The balance enhanced amount shall be deposited by the respondents within two months from the date of receipt of a copy of this order. The appellants are directed to withdraw the entire amount after expiry of the appeal time.

In the result, the appeal is allowed partly awarding compensation of Rs.63,000/- with interest at 9% pa., from the date of petition till realization and with proportionate costs.

As a sequel to the disposal of this appeal, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE G.SHYAM PRASAD

Dated.11-11-2016.

Dvs.

HONOURABLE SRI JUSTICE G.SHYAM PRASAD



M.A.C.M.A.No.404 OF 2006

Dated.11-11-2016.

Dvs