

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A. No.2372 of 2005

JUDGMENT:

This appeal is filed by the injured claimant seeking enhancement of compensation, awarded in O.P. No.12 of 2000 by the Motor Accidents Claims Tribunal-cum-V Additional District Judge, Nizamabad (for short, 'the Tribunal') on 08.04.2005.

The appellant herein filed the said O.P. claiming compensation of Rs.2,50,000/- for the injuries sustained by him in a motor accident that occurred on 27.06.1999 when he was standing on the side of the road at the bus stand of Mupkal village on the Highway No.7. When he was thus standing, a Hero Honda motorcycle bearing registration No.AP-25-B 392, driven by respondent No.1, dashed him. In the said accident, he fell down and the front wheel of the motorcycle ran over him. He was immediately admitted in the Government Hospital, Nizamabad and thereafter, he was referred to NIMS Hospital, Hyderabad. It was alleged that his right leg was operated and rods were inserted. Though he claimed an amount of Rs.12,80,000/-, he restricted his claim to Rs.2,50,000/-.

Respondent No.1, owner of the vehicle, remained *ex parte* and Respondent No.2-Insurance Company contested the case.

On the basis of the pleadings, the Tribunal framed the following issues:

- 1) Whether the accident was due to rash and negligent driving of the Hero Honda cycle motor bearing No.AP-25-B-392 by its driver?
- 2) Whether the petitioner is entitled for compensation? If so, what amount and against which of the respondents?
- 3) To what relief?

Before the Tribunal, the injured was examined as PW1 and examined one Dr. L.Ramulu as PW2. He marked exhibits A1 to

A11.

The Tribunal, on the basis of oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of motorcycle bearing registration No.AP-25-B-392.

As per the Wound Certificate under Ex.A3, issued by the Government Hospital, Nizamabad, the following injuries were sustained by him:

- (i) fracture of shaft femur right leg
- (ii) contusion on chest right side measuring 10x10 cms
- (iii) abrasion on right knee measuring 2x2 cms

Ex.A10 is the case record in original of Government Hospital, Nizamabad. The Tribunal held that though the petitioner proved with regard to the injuries and treatment, he could not prove the surgery in NIMS Hospital, Hyderabad. The disability, assessed by PW2, of 60% permanent partial disability was not accepted as the said certificate was issued by him in his private capacity and it was not issued by the Government Medical Board of Doctors at Nizamabad. The petitioner was working as an agriculturist and was aged about 38 years. On the basis of evidence, the Tribunal awarded an amount of Rs.5,000/- towards grievous injury, Rs.2,000/- to two simple injuries, Rs.3,750/- towards loss of income and Rs.5,000/- towards extra nourishment and transportation charges. Thus, in all the Tribunal awarded an amount of Rs.15,750/- towards compensation. Seeking enhancement of the said amount, the present appeal is filed.

There is no dispute with regard to the fracture of shaft femur right leg and the award of the amount of Rs.5,000/- to such fracture is on the lower side and it has to be enhanced to Rs.15,000/-, though the award in respect of the simple injuries

does not warrants any interference. The petitioner is stated to be an agriculturist and he had taken treatment for three months. The amount of Rs.3,750/- towards loss of income is grossly inadequate and it should be enhanced to Rs.6,000/-. The amount of Rs.5,000/-, awarded towards extra nourishment and transportation charges, does not need any interference. However, some amount should be given to the petitioner towards pain and suffering and this Court feels that an amount of Rs.10,000/- would meet the ends of justice.

In the above circumstances, the amount of Rs.15,750/-, awarded by the Tribunal, is enhanced to Rs.38,000/- (Rupees thirty eight thousand only) and the enhanced amount of compensation shall carry the same rate of interest @ 9% per annum from the date of petition till the date of realisation.

Accordingly, this Appeal is partly allowed. No order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

28.01.2016

MVA