

HON'BLE SRI JUSTICE G.SHYAM PRASAD

MACMA No.778 OF 2006

JUDGMENT:

1. This appeal is arising out of the order, dated 16.11.2005, in M.V.O.P.No.400 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-VII Additional District (FTC), Nizamabad at Bodhan (for short "Tribunal").

2. The appellant, who is the injured in the motor vehicle accident that occurred on 19.09.2000, filed the Petition under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short, 'the Act'), claiming compensation of Rs.2,50,000/- on account of the injuries sustained by him in the accident.

3. The Tribunal, on consideration of the evidence of the witnesses and the documents marked, awarded compensation of Rs.21,000/- with proportionate costs and interest at the rate of 7.5% p.a. from the date of petition till realization.

4. Feeling aggrieved by the impugned order, this Appeal has been preferred by the appellant seeking enhancement of the compensation.

5. The facts, in brief, are that on 19.09.2000 at about 5.30 P.M., when the appellant is sitting in front of his house on a stone by the side of Maharashtra to Bijjulwadi road, driver of the crime jeep bearing No.MXM 7473, belonging to the 1st respondent, driven the same at high speed in a rash and negligent manner, dashed him, due to which, he fell down and sustained multiple injuries and fractures and was shifted to Government Hospital, Bichkunda

and, thereafter, he was referred to Government Headquarters Hospital, Nizamabad, where he was treated by PW.2-Dr T. Narsing Rao; his left hand was operated twice and rod was inserted and even as on the date of filing the petition, he was undergoing treatment from private hospitals, and incurred an amount of Rs.1,00,000/-. The appellant claims that he sustained permanent disability on account of accident and, therefore, sought Rs.2,50,000/- towards compensation.

6. The 1st respondent-owner of the vehicle remained *ex-parte* before the Tribunal. The 2nd respondent-insurance company filed written statement denying the material allegations mentioned in the petition and sought for dismissal of the petition.

7. During the course of enquiry before the Tribunal, on behalf of the appellant, PWs1 and 2 were examined and Exs.A.1 to A.10 were marked, to substantiate his claim as regard to his entitlement for compensation. On behalf of the respondents, none were examined and no documents were marked.

8. On appraisal of evidence, both oral and documentary, the Tribunal held that due to rash and negligent driving of the driver of the jeep, accident had occurred and, accordingly, answered issue No.1 in favour of the appellant.

9. On issue No.2, as regard to quantum of compensation, the Tribunal in Para 9 of the order observed as follows:

“But as seen from Ex.A.7-case sheet, which was produced in pursuance of the summons issued by this Court, the petitioner sustained fracture of Olecranon of the right ulna. Ex.A.2 the certified xerox copy of Wound Certificate, which

was issued by the Medical Officer of Government Hospital, Bichkunda would indicate that the petitioner sustained three simple injuries and one grievous injury. As per case-sheet the petitioner was in-patient in Government Hospital, Nizamabad from 25.09.2000 to 23.10.2000 nearly for a period of one month. Thus at best the petitioner is entitled for compensation for fracture injury, which is grievous in nature and three simple injuries and also for the loss of earnings during the period he was inpatient in the Government Hospital, Nizamabad. Though the petitioner claims that as a labourer he was earnings Rs.100/- per day, there is no proof as such for the same, but considering the present day cost of living a sum of Rs.2,000/- can be awarded for the loss of earnings during the period the petitioner was in hospital. Thus, a sum of Rs.10,000/- for one grievous injury, Rs.6,000/- for three simple injuries, Rs.2,000/- for loss of earnings and Rs.3,000/- towards pain and suffering is sufficient to meet the ends of justice. Put together the petitioner is entitled for compensation for Rs.21,000/- against both the respondents jointly and severally. Hence, this issue is answered accordingly.”

10. Heard Mr. P. Radhive Reddy, learned counsel for the appellant, and there is no representation on behalf of the 2nd respondent-insurance company.

11. Learned counsel for the appellant submits that the appellant has received one grievous injury and three simple injuries and he was treated as inpatient for one month in a Government Hospital and that the compensation awarded by the Tribunal is very low and meager. The appellant has filed Ex.A.9-disability certificate to show that he suffered disability due to the injuries sustained by him in the motor vehicle accident. It is further submitted that the Tribunal has rejected the disability certificate on the ground that the same was obtained four years after the accident.

12. The compensation awarded by the Tribunal is enhanced keeping in view the decision of the Apex Court in **Puttamma v. K.L.Narayana Reddy**¹. The tabular form given below would show the enhancement particulars.

Sl.No.	Name of Head	Compensation Awarded by Tribunal	Compensation Awarded by this Court
01.	Loss of earnings	Rs.2,000/-	Rs.3,000/-
02.	Grievous injury	Rs.10,000/-	Rs.20,000/-
03.	Three simple injuries	Rs.6,000/-	Rs.15,000/-
04.	Pain and suffering	Rs.3,000/-	Rs.10,000/-
	TOTAL	Rs.21,000/-	Rs.48,000/-

13. Accordingly, the Civil Miscellaneous Appeal is allowed in part enhancing the compensation awarded by the Tribunal from Rs.21,000/- to Rs.48,000/- with interest @ 7.5% per annum. The 2nd respondent is directed to deposit the amount within two months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw half of the decretal amount. The amount remaining is permitted to be withdrawn after expiry of the appeal time.

14. In the result, the MACMA is partly allowed. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any, pending shall stand closed.

G. SHYAM PRASAD, J

Date: 18.11.2016
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¹ 2014 ACJ 526