

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.2130 of 2005

JUDGMENT:

The appellant herein is claimant in O.P.No.1016 of 2003 on the file of the Court of Motor Accident Claims Tribunal-cum-Principal District Judge, Ranga Reddy District at L.B.Nagar (for short, Tribunal).

2. The appellant filed the said OP claiming compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident that occurred on 22.07.2000. It was stated in the said OP that on 22.07.2000 at about 04.00 pm., when the appellant was proceeding as a driver in a lorry bearing No.AP10T 8639 from Bangalore towards Tamilnadu near Hosur IML Factory to unload the goods, and when the lorry reached near Yadavanahalli Check Post on N.H.No.7, one lorry bearing No.TN41E 7519, which was going in front of his lorry from right side of the road, suddenly turned to the left side without any indication and applied sudden breaks, as a result of which, the appellant lost control and dashed the lorry which was going in front of his lorry and received severe crush and fracture injuries all over his body. He was shifted to Sanjay Gandhi Accident Hospital and Research Institute, Bangalore, where his left leg was amputated while he was undergoing treatment.

3. The Tribunal came to the conclusion that the accident occurred only due to the rash and negligent driving of the driver of the lorry bearing No.TN41E 7519. With regard to compensation, the Tribunal awarded an amount of Rs.3,31,560/- towards compensation by taking the disability as 50% to the monthly income of Rs.3,000/- by applying the multiplier of 18.42. The Tribunal also awarded an amount of Rs.9,874/- towards medical expenses, Rs.15,000/- towards pain and suffering and Rs.10,000/- towards extra-nourishment and nutrition. In all, the Tribunal

awarded an amount of Rs.3,66,434/-, by award dated 22.07.2003.

Seeking enhancement of the said compensation, the present appeal is filed.

4. There is no dispute with regard to application of multiplier and the monthly earnings of the appellant. The learned counsel for the appellant submits that the Tribunal awarded only an amount of Rs.9,874/- towards medical expenses even though the appellant claimed an amount of Rs.80,000/-. But the evidence on record showed that the appellant spent an amount of Rs.9,874/- towards medical expenses. Ex.A.7 original disability certificate showed that the appellant suffered 50% disability. Admittedly, the appellant is a driver and with a defective leg he cannot drive the vehicles. There is a constant loss of comfort in his left leg due to amputation of his left leg below the knee.

5. In the circumstances, the Tribunal should have awarded an amount of Rs.25,000/- towards medical expenses even though he could not substantiate his claim for Rs.80,000/- and could file the bills only to a tune of Rs.9,874/-. The amount of Rs.15,000/- awarded towards pain and suffering is also grossly inadequate and it requires enhancement to at least Rs.30,000/-.

6. Hence, the Award of the Tribunal dated 22.07.2003 in O.P.No.1016 of 2000 is modified by awarding an amount of Rs.3,31,560/- towards loss of earnings, Rs.25,000/- towards medical expenses, Rs.30,000/- towards pain and suffering and Rs.10,000/- towards extra-nourishment and nutrition, in all, Rs.3,96,560/-. Thus, the award of Rs.3,66,434/- awarded by the Tribunal is enhanced to Rs.3,96,560/-. The enhanced amount of compensation shall carry the same rate of interest @ 9% per annum from the date of petition till the date of realization.

7. Accordingly, the appeal is partly allowed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 18.01.2016
TJMR