

THE HON'BLE SMT. JUSTICE ANIS

M.A.C.M.A. No. 2926 OF 2005

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JUDGMENT:

This appeal is filed by the appellant/petitioner under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), aggrieved by the award dated 06.03.2002 passed by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Nalgonda, in O.P.No.1116 of 1998, awarding compensation of Rs.52,500/-.

2. The claimant filed the above O.P under Section 166 of the Act, claiming compensation of Rs.3,00,000/- on account of the injuries sustained by him in a motor vehicle accident.

3. For the sake of convenience, the parties are referred to as arrayed in the O.P. before the Tribunal.

4. The brief averments made in the petition are as follows:

On 17.09.1998 at about 7.00 a.m., while the petitioner was going on a lorry bearing No.AAT 4433 in the capacity of the cleaner from Hyderabad to Vijayawada and when the lorry reached near Panthangi bus stage on National Highway No.9, one lorry bearing No.ATR 1415 laden with cement came in opposite direction from Vijayawada side at high speed in a rash and negligent manner and dashed against the lorry bearing No.AAT 4433. In the said accident, the petitioner sustained fracture of both bones of both legs and hands apart from other injuries. Immediately, the petitioner was shifted to Osmania General Hospital, Hyderabad. The police, Choutuppal registered a case in Crime No.122 of 1998 against the driver of the lorry bearing

No.ATR 1415. It is stated that the said accident occurred due to rash and negligent driving of the driver of the lorry bearing No. ATR 1415.

5. The respondent No.1 remained *ex parte* before the Tribunal.

6. The brief averments made in the counter filed by the respondent No.2 before the Tribunal are as follows:

The respondent put the petitioner to prove the manner of accident, age and income of the petitioner. The respondent specifically stated that the compensation claimed by the petitioner is high and excessive and prayed the Court to dismiss the petition.

7. Basing on the pleadings, the Tribunal framed three issues and to substantiate the claim, the petitioner himself was examined as PW1 and got marked Exs.A.1 to A.7. On behalf of respondent No.2, no oral evidence was adduced, but got marked Ex.B.1 – copy of insurance policy by consent.

8. The Tribunal, after considering the oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of lorry bearing No.ATR 1415 and awarded compensation of Rs.52,500/- along with interest at 9% per annum.

9. Not satisfied with the award passed by the Tribunal, the appellant/petitioner preferred the present appeal.

10. The learned counsel for the appellant/petitioner argued that in the accident, the petitioner suffered eight injuries which includes six simple injuries and two grievous injuries and the Tribunal without considering the nature of the injuries and the treatment

taken by the petitioner, awarded meagre compensation, and further the petitioner is entitled for compensation under the heads of extra-nourishment, transportation charges and future loss of income. It is further argued that the compensation awarded for the simple and grievous injuries as well medical expenses are meagre when compared with the injuries received by the petitioner. It is also argued that the petitioner was admitted in hospital and he took treatment as inpatient for two months and thereafter he took treatment in a private hospital by spending huge amount. Therefore, prayed the Court to enhance the compensation.

11. On the other hand, the learned counsel for the respondent No.2 argued that the compensation awarded by the Tribunal is just and reasonable and the petitioner is not entitled for enhancement of compensation as the Tribunal, after considering the oral and documentary evidence, awarded compensation under all heads and that the finding of the Tribunal needs no interference, and finally, prayed the Court to dismiss the appeal.

12. Having regard to the submissions made by both the learned counsel, the points that arise for consideration are:

1. Whether the appellant/petitioner is entitled for enhancement of compensation?
2. Whether the compensation awarded by the Tribunal is just and reasonable?

13. **Points:**

A perusal of the evidence of PW1 coupled with Exs.A.1 and A.3, it is proved that the accident occurred due to rash and negligent driving of the driver of the offending lorry bearing No.ATR 1415.

14. The petitioner himself was examined as PW1 and in his evidence he categorically stated that he sustained six simple injuries and two grievous injuries and he took treatment for two months in hospital and incurred huge expenditure towards medical expenses and other expenses. Considering the nature of injuries received by the petitioner, he is entitled for compensation of Rs.40,000/- for two grievous injuries @ Rs.20,000/- for each injury. The petitioner sustained six simple injuries and the Tribunal only awarded Rs.1,000/- for each injury. Therefore, the petitioner is entitled for Rs.12,000/- towards six simple injuries.

15. It is no doubt that the Tribunal after considering Ex.A.6, awarded compensation of Rs.4,500/- towards medical expenses. However, the said amount is very meagre considering the nature of injuries sustained by the petitioner and further he took treatment in the hospital for about two months. Therefore, an amount of Rs.10,000/- is awarded towards medical expenses.

16. A perusal of the award shows that the Tribunal awarded only Rs.5,000/- towards pain and suffering and extra nourishment. As it is very meagre, an amount of Rs.10,000/- is awarded for extra nourishment and Rs.10,000/- is awarded towards pain and suffering, and also Rs.10,000/- is awarded towards transportation charges.

17. As per the evidence of PW1, he was a cleaner in the lorry bearing No.AAT 4433 and on the date of accident, he was under employment of his owner and earning a considerable amount. But, the Tribunal has not considered the said aspect and no compensation is awarded under the head of loss of future income. A perusal of the evidence shows that PW1 in his evidence clearly stated that he was admitted in the hospital and took treatment as

inpatient for about two months. Apart from treatment of two months, the petitioner must have taken some rest after discharge also. Hence, considering the nature of the injuries and the evidence on record, the petitioner is entitled for an amount of Rs.10,000/- under the head of loss of future income. Thus, an amount of Rs.1,02,000/- is awarded to the petitioner as compensation.

18. Therefore, in view of the above discussion, the compensation awarded by the Tribunal is enhanced from Rs.52,500/- to Rs.1,02,000/- and on the enhanced amount of Rs.49,500/-, an interest @ 7.5% per annum is awarded from the date of appeal till the date of realisation.

19. Accordingly, the appeal is partly allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

(ANIS, J)

29.01.2016
Anr

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